

United States<sup>11.</sup>

Circuit Court of Appeals

For the Ninth Circuit.

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DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, a Corporation,

Appellant,

vs.

THE UNITED STATES OF AMERICA,

Appellee.

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Transcript of Record.

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Upon Appeal from the United States District Court for the  
Southern District of California, Northern Division.

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FILED

JAN 3 - 1918

F. D. MORTON,  
CLERK



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Circuit Court of Appeals  
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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*In the District Court of the United States, for the  
Southern District of California, Northern Divi-  
sion, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, ASSOCIATED OIL COMPANY,  
and STANDARD OIL COMPANY,

Defendants.

**Citation on Appeal.**

The United States of America,—ss.

To the United States of America, GREETING:

YOU ARE HEREBY CITED and admonished to be and appear at the United States Circuit Court of Appeals, Ninth Circuit, of the United States, to be holden at San Francisco, California, on the 18 day of February, 1917, pursuant to an appeal filed in the clerk's office of the United States District Court in and for the Southern District of California, Northern Division, Ninth Circuit, wherein the Devil's Den Consolidated Oil Company, a corporation, is appellant and the United States of America is respondent to show cause, if any there be, why the order and decree appointing Howard M. Payne receiver of the properties involved in the above-entitled suit should not be corrected and speedy justice should not be done to the parties on that behalf.

WITNESS the Honorable MAURICE T. DOOLING, Judge of said District Court, this 19 day of January, in the year of our Lord one thousand nine hundred and seventeen and of the Independence of the United States of America one hundred and forty-first.

M. T. DOOLING,  
District Judge. [4\*]

Due service of the within Citation on Appeal is hereby admitted and acknowledged on behalf of the United States this 19th day of January, 1917.

ALBERT SCHOONOVER,  
United States Attorney,  
E. J. JUSTICE,  
FRANK HALL,

Special Assistants to the Attorney General,  
Attorneys for Appellees.

[Endorsed]: In Equity—No. A-37 Eq. In the District Court of the United States for the Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company, Defendants. Citation on Appeal. Filed Jan. 23, 1917. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk. [5]

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\*Page-number appearing at foot of page of original certified Transcript of Record.

**Names and Addresses of Attorneys.**

For Appellant:

JOSEPH D. REDDING, Esq., and Messrs.  
MORRISON, DUNNE & BROBECK,  
Crocker Building, San Francisco, Califor-  
nia.

For Appellees:

ROBERT O'CONNOR, Esq., United States  
Attorney, Los Angeles, California; HENRY  
F. MAY, Esq., and FRANK HALL, Esq.,  
Special Assistants to the Attorney General,  
San Francisco, California. [6]

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*In the District Court of the United States of Amer-  
ica, in and for the Southern District of Califor-  
nia, Northern Division.*

IN EQUITY—No. A-37.

THE UNITED STATES OF AMERICA,  
Complainants,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, a Corporation, ASSOCIATED OIL  
COMPANY, a Corporation, and STANDARD  
OIL COMPANY, a Corporation,  
Defendants. [7]

*In the District Court of the United States, for the Southern District of California, Northern Division, Ninth Circuit.*

IN EQUITY—No. A-37—Eq.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY, ASSOCIATED OIL COMPANY,  
and STANDARD OIL COMPANY,

Defendants.

**Bill of Complaint.**

To the Judges of the District Court of the United States for the Southern District of California, Sitting Within and for the Northern Division of Said District:

The United States of America, by Thomas W. Gregory, its Attorney General, presents this, its Bill in Equity, against Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company (citizens and residents, respectively, as stated in the next succeeding paragraph of this bill), and for cause of its complaint alleges:

I.

Each of the defendants, Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company, now is and at all times hereinafter mentioned as to it was, a corporation organized under the laws of the State of California.

II.

For a long time prior to and on the 27th day of September, 1909, and at all times since said date, the plaintiff has been and now is the owner and entitled to the possession of the following described petroleum, or mineral oil, and gas lands, [8] to wit:

The Northeast Quarter of Section Thirty in Township Twenty-six South, of Range Twenty-one East, Mount Diablo Base and Meridian, and of the oil, petroleum, gas, and all other minerals contained in said land.

III.

On the 27th day of September, 1909, the President of the United States, acting by and through the Secretary of the Interior, and under the authority legally invested in him so to do, duly and regularly withdrew and reserved all of the land hereinbefore particularly described (together with other lands) from mineral exploration, and from all forms of location or settlement, selection, filing, entry, patent, occupation, or disposal, under the mineral and nonmineral land laws of the United States; and since said last named date none of said lands have been subject to exploration for mineral oil, petroleum or gas, occupation, or the institution of any right to such oil or gas under the public land laws of the United States.

IV.

Notwithstanding the premises, and in violation of the proprietary and other rights of this plaintiff, and in violation of the laws of the United States and lawful orders and proclamations of the President of the United States, and particularly in violation of the

said order of withdrawal of the 27th of September, 1909, the defendant herein, to wit, Devil's Den Consolidated Oil Company, entered upon the said land hereinbefore particularly described, long subsequent to the 27th day of September, 1909, for the purpose of exploring said land for petroleum and gas. [9]

V.

Said defendant Devil's Den Consolidated Oil Company had not discovered petroleum, gas or other minerals on said land on or before the 27th day of September, 1909, and had acquired no rights on, or with respect to said land on or prior to said date.

VI.

Long after the said order of withdrawal of September 27, 1909, to wit: Some time in the latter part of the year 1910, as plaintiff is informed and believes, the defendant Devil's Den Consolidated Oil Company discovered petroleum on said land, and has produced, and caused to be produced therefrom large quantities of petroleum, but the exact amount so produced plaintiff is unable to state. Of the petroleum so produced large quantities thereof have been sold and delivered by the defendant Devil's Den Consolidated Oil Company to defendants Associated Oil Company and Standard Oil Company, but the exact amount, or amounts, so sold plaintiff is unable to state.

Plaintiff does not know and is therefore unable to state the amount of petroleum which defendant Devil's Den Consolidated Oil Company may have sold to other corporations or persons, nor the amount extracted and now remaining undisposed of; nor the

price received for such as has been sold defendants Associated Oil Company and Standard Oil Company, or other corporations or persons, and has no means of ascertaining the facts in the premises except from said defendants Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company, and therefore a full discovery from said defendants is sought herein.

VII.

The defendant Devil's Den Consolidated Oil Company is now extracting oil from said land, boring oil and gas wells, [10] and otherwise trespassing upon said land and asserting claims thereto, and if it continues to procure oil therefrom it will be taken and wrongfully sold and converted, and various other trespasses and waste will be committed upon said land, to the irreparable injury of complainant, and to the interference with the policies of the complainant with respect to the conservation, use and disposition of said land, and particularly the petroleum, oil and gas contained therein.

VIII.

Each of the defendants claims some right, title or interest in said land or some part thereof, or in the oil, petroleum or gas extracted therefrom, or in or to the proceeds arising from the sale thereof, or through and by purchase thereof, and each of said claims is predicated upon or derived directly or mediately from some pretended notice or notices of mining locations, and by conveyances, contracts or liens directly or mediately from said such pretended locators. But none of such location notices and claims are valid

against complainant, and no rights have accrued to the defendants or either of them thereunder, either directly or mediately; nor have any minerals been discovered or produced on said land except as hereinbefore stated; but said claims so asserted cast a cloud upon the title of the complainant and wrongfully interfere with its operation and disposition of said land, to the great and irreparable injury of complainant; and the complainant is without redress or adequate remedy save by this suit, and this suit is necessary to avoid a multiplicity of actions.

## IX.

Neither of the defendants, nor any person or corporation from whom they have derived any alleged interest was, at the date of said order of withdrawal of September 27, 1909, nor was any other person at such date a *bona fide* occupant or claimant [11] of said land and in the diligent prosecution of work leading to the discovery of oil or gas.

## X.

The defendant Devil's Den Consolidated Oil Company claims said land under a location notice posted and filed in the names of Chas. Togni, U. D. Switzer (*alias* Paul Switzer), E. C. Farnsworth, A. R. Orr, M. T. Mills, C. J. Giddings, L. C. Hyde, and W. B. Wallace, and as the Consolidated Placer Mining Claim. And said location notice under which the said defendant claims is dated February 13, 1907.

## XI.

The said location notice was filed and posted by or for the sole benefit of the defendant, the Devil's Den Consolidated Oil Company, and the names of the pre-



tended locators above set out were employed and used by said defendant company to enable it to acquire more than twenty acres of mineral land in violation of the laws of the United States. The said persons whose names were used in said location notice were not *bona fide* locators, and each of them was without an interest in said location notice so filed, and their names were not used to enable them or either of them to secure said land or patent therefor; but each of said persons was a mere dummy used by said defendant company for its benefit, all of which complainant is informed and believes, and so alleges.

### XII.

That soon after the date of said location notice so posted and filed, to wit, on May 30, 1907, the defendant Devil's Den Consolidated Oil Company carried out its original plan to unlawfully acquire more than twenty acres of mineral land under one location made by it or for its benefit, by causing said persons whose names were so used as dummies to convey to it by deed the said northeast quarter of said land described in Article II [12] hereof, and said defendant company fraudulently claims said land under said location notice, and under said deed dated May 30, 1907.

### XIII.

Except as in this bill stated, the plaintiff has no other knowledge or information concerning the nature of any other claims asserted by the defendants herein or any of them, and therefore leaves said defendants to set forth their respective claims of interest.

In that behalf, the plaintiff alleges that, because of

the premises of this bill, none of the defendants have, or ever had any right, title or interest in or to, or lien upon said land or any part thereof, or any right, title or interest in or to the petroleum, mineral oil, or gas deposited therein, or any right to extract the petroleum or mineral oil or gas from said land, or to convert or dispose of the petroleum and gas so extracted, or any part thereof; on the contrary, the acts of those defendants who have entered upon said land and drilled oil wells and used and appropriated the petroleum and gas deposited therein, and assumed to sell and convey any interest in or to any part of said land, were all in violation of the laws of the United States and the aforesaid order withdrawing and reserving said land, and all of said acts were and are in violation of the rights of the plaintiff, and such acts interfere with the execution by complainant of its public policies with respect to said land.

## XIV.

The present value of said land hereinbefore described exceeds Five Hundred Thousand Dollars (\$500,000).

In consideration of the premises thus exhibited, and inasmuch as plaintiff is without full and adequate remedy in the premises, save in a court of equity where matters of this nature are properly cognizable and relievable, plaintiff prays: [13]

1. That said defendants, and each of them, may be required to make full, true and direct answer respectively to all and singular the matters and things hereinbefore stated and charged, and to fully disclose and state their claims to said land hereinbefore

described, and to any and all parts thereof, as fully and particularly as if they had been particularly interrogated thereunto, but not under oath, answer under oath being hereby expressly waived;

2. That the said land may be declared by this Court to have been at all times from and after the 27th day of September, 1909, lawfully withdrawn from mineral exploration and from all forms of location, settlement, selection, filing, entry or disposal under the mineral or nonmineral public land laws of the United States; and that the said location notice of February 13, 1907, was fraudulently filed, and the said defendant did not acquire any right thereunder;

3. That said defendants, and each of them, may be adjudged and decreed to have no estate, right, title, interest or claim in or to said land or any part thereof, or in or to any mineral or minerals or mineral deposits contained in or under said land or any part thereof; and that all and singular of said land, together with all of the minerals and mineral deposits, including mineral oil, petroleum and gas therein or thereunder contained, may be adjudged and decreed to be the perfect property of this plaintiff, free and clear of the claims of said defendants, and each and every one of them;

4. That each and all of the defendants herein, their officers, agents, servants and attorneys, during the progress of this suit, and thereafter, finally and perpetually, may be enjoined from asserting or claiming any right, title, interest, claim or lien in or to the said land or any part thereof, or in or to any [14] of the minerals, or mineral deposits therein, or there-

under contained; and that each and all of the defendants herein, their officers, agents, servants and attorneys, during the progress of this suit, and thereafter, finally and perpetually may be enjoined from going upon any part or portion of said land, and from in any manner using any of said land and premises, and from in any manner extracting, removing or using any of the minerals deposited in or under said land and premises, or any part or portion thereof, or any of the other natural products thereof, and from in any manner committing any trespass or waste upon any of said land or with reference to any of the minerals deposited therein or thereunder, or any of the other natural products thereof;

5. That an accounting may be had by said defendants, and each and every one of them, wherein said defendants, and each of them, shall make a full, complete, itemized and correct disclosure of the quantity of minerals (and particularly petroleum) removed or extracted, or received by them or either of them, from said land, or any part thereof, and of any and all moneys or other property or thing of value received from the sale or disposition of any and all minerals extracted from said land or any part thereof, and of all rents and profits received under any sale, lease, transfer, conveyance, contract or agreement concerning said land or any part thereof; and that the plaintiff may recover from said defendants, respectively, all damages sustained by the plaintiff in these premises;

6. That a receiver may be appointed by this Court to take possession of said land and of all

wells, derricks, drills, pumps, storage vats, pipes, pipe-lines, shops, houses, machinery, tools and appliances of every character whatsoever thereon, belonging to or in the possession of said defendants, or any of them, which have been used or now are being used in the extraction, [15] storage, transportation, refining, sale, manufacture, or in any other manner in the production of petroleum or petroleum products or other minerals from said land or any part thereof for the purpose of continuing, and with full power and authority to continue the operations on said land in the production and sale of petroleum and other minerals where such course is necessary to protect the property of the complainant against injury and waste, and for the preservation, protection and use of the oil and gas in said land, and the wells, derricks, pumps, tanks, storage vats, pipes, pipe-lines, houses, shops, tools, machinery and appliances being used by the defendants, their officers, agents or assigns in the production, transportation, manufacture or sale of petroleum or other minerals from said land or any part thereof, and that such receiver may have the usual and general powers vested in receivers of courts of chancery.

To the end, therefore, that this plaintiff may obtain the relief to which it is justly entitled in the premises, may it please your Honors to grant unto the plaintiff a writ or writs of subpoena, issued by and under the seal of this Honorable Court, directed to said defendants herein, to wit: Devil's Den Consolidated Oil Company, Associated Oil Com-

pany, and Standard Oil Company, therein and thereby commanding them and each of them at a certain time, and under a certain penalty therein to be named, to be and appear before this Honorable Court, and then and there, severally, full, true and direct answers make to all and singular the premises, but not under oath, answer under oath being hereby expressly waived, and stand to perform and abide by, such order, direction and decree as may be made against them, or any of them, in the premises, and shall be meet and agreeable to equity.

THOS. W. GREGORY,

Attorney General of the United States.

ALBERT SCHOONOVER,

United States District Attorney. [16]

E. J. JUSTICE,

Special Assistant to the Attorney General.

A. E. CAMPBELL,

Special Assistant to the Attorney General.

United States of America,  
Southern District of California.

J. D. Yelverton, being first duly sworn, deposes and says:

He is now and has been since the 1st day of March, 1913, Chief of Field Service of the General Land Office of the United States, and since the 1st day of July, 1915, has also been in direct charge of the San Francisco office of the Field Division of the General Land Office, and much of his official work has been done in the investigation of facts relating to the lands withdrawn by the President as oil lands,

and especially the lands withdrawn by order of September 27, 1909, and by the order of July 2, 1910. That from examinations of such lands, and the facts in relation thereto by Special Agents acting under his direction as such Chief of Field Service, and from examinations of the records of the General Land Office, and the local Land Office of Complainant in said State of California, and particularly from the detailed reports of the Field Agents, and accompanying affidavits setting forth the facts, he is informed as to the matters and things stated in the foregoing complaint with reference to the particular lands therein described; and the matters therein stated are true, except as to such matters as are stated to be on information and belief, and as to these, affiant, after investigation, states he believes them to be true.

J. D. YELVERTON.

Subscribed and sworn to before me this 10th day of September, 1915.

[Seal] J. A. SCHAERTZER,  
Deputy Clerk, U. S. District Court, Northern District of California. [17]

[Endorsed]: No. A-37-Eq. In the District Court of the United States for the Southern District of California. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company, Defendants. Bill of Complaint. Filed Sep. 13, 1915. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk. [18]

*In the District Court of the United States for the  
Southern District of California, Northern Di-  
vision, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, ASSOCIATED OIL COMPANY  
and STANDARD OIL COMPANY,

Defendants.

**Answer by Devil's Den Consolidated Oil Company.**

Comes now Devil's Den Consolidated Oil Com-  
pany, one of the defendants in the above-entitled  
action, and in answer to the complaint of the plain-  
tiff therein admits and denies as follows:

I.

Admits that the plaintiff holds the legal title to  
the property referred to and described in paragraph  
II of said complaint, but denies that said plaintiff is  
entitled to the possession of the said lands, or to any  
part thereof, or to the possession of the oil, petrol-  
eum, gas and all other minerals, or to the possession  
of any mineral contained in said lands, and in this  
behalf the said defendant alleges that it is and ever  
since the 30th day of May, 1907, has been entitled  
to the possession of the said lands described in said  
paragraph II, and to the possession of the oil,  
petroleum, gas and all other minerals [19] con-



tained therein, and is the equitable owner of said lands and is entitled to the execution by the plaintiff of a patent to it, conveying to it the legal title to said lands and to all the minerals contained therein.

## II.

Admits that on the 27th day of September, 1909, the President of the United States legally withdrew and reserved certain land from mineral exploration and from all forms of location or settlement, selection, filing, entry, patent, occupation, or disposal under the mineral and non-mineral land laws of the United States, but denies that by said order the lands described in paragraph II of said complaint, which said lands, as heretofore alleged, are in the lawful possession of this defendant, were in any manner affected, or that the rights of this plaintiff were in any manner affected thereby; that in and by the terms of said order of withdrawal it was provided that all locations or claims existing and valid on the date of said withdrawal might proceed to entry in the usual manner after filing, investigation and examination, and that the land described in paragraph II of said complaint, at all times since the 13th day of February, 1907, has been and now is a valid location and claim within the meaning, purport and effect of the said proviso to the said withdrawal order.

## III.

Denies that in violation of the proprietary and other rights of the plaintiff, and in violation of the laws of the United States, and lawful orders and proclamations of the President of the United States,

and in violation of said order of withdrawal of the 27th of September, 1909, or that in violation of any right of the plaintiff or of any law of the United States or of any proclamation of the President of the United States, the [20] said defendant entered upon the said lands described in said complaint, or upon any part thereof long, or at all, subsequent to the 27th day of September, 1909, for the purpose of exploring said land for petroleum and gas, or for any purpose, and in this behalf the said defendant alleges that it, and its assignors and predecessors in interest, have been in the lawful possession of the said land since the 13th day of February, 1907.

#### IV.

Admits that this defendant had not discovered petroleum or gas on said land on or before the 27th day of September, 1909, but denies that the said defendant had not discovered other mineral on said land on or before said date and denies that it had acquired no rights on or with respect to said land on or prior to said date and in this behalf the said defendant alleges that, its assignors and predecessors in interest, through whom this defendant derails its title, discovered a mineral, to wit, gypsum, on said land long before the 27th day of September, 1909, to wit, on the 13th day of February, 1907, and that by virtue of said discovery and the due posting and recording of a valid location notice and by virtue of the performance of the annual labor and assessment work required by statute, and the due performance by it, and by its prede-

cessors in interest of all the requirements of the laws relating thereto, this defendant acquired rights on and with respect to said lands, which said rights could not lawfully be, and were not, impaired by said withdrawal order of the 27th day of September, 1909.

## V.

Admits that after the said order of withdrawal of September 27, 1909, this defendant discovered petroleum on said land, and has produced and caused to be produced therefrom large [21] quantities of petroleum; that the plaintiff herein has been heretofore apprised of the amount of petroleum so produced by this defendant and the persons to whom said petroleum was sold and the prices received therefor.

## VI.

Admits that this defendant is now extracting oil from said lands, but denies that it is now boring oil wells or gas wells thereon, or that it is at all trespassing upon said land; admits that if this defendant continues to procure oil from the said lands that the said oil so produced will be sold by this defendant, but denies that such sales, or any such sale, will be wrongful or will amount to the conversion of the said oil, and denies that various other trespasses and waste, or any trespass or waste, will be committed upon said lands by this defendant, to the irreparable injury, or to the injury at all of the plaintiff, with respect to the conservation, use and disposition of said lands, or with respect to the conservation, use and disposition of the petroleum,

oil or gas contained therein, or to the injury of the plaintiff in any manner or for any reason.

## VII.

Admits that the right, title and interest claimed by this defendant in and to said land and in and to the oil, petroleum and gas extracted therefrom, and in and to the proceeds arising from the sale thereof, is predicated upon and derived from a notice of mining location and by conveyance from the original locators thereof, but denies that said notice was, or is a pretended notice, or that said conveyance was made by a pretended location or locators; denies that such location notice and claim is not valid against the complainant, and denies that no rights have accrued to this defendant thereunder; denies that the claim [22] of this defendant in and to the said lands casts a cloud upon the title of the complainant, or that said claim of this defendant wrongfully interferes with the operation and disposition of said land by said complainant to the great and irreparable injury of the complainant, or to the injury at all of the complainant, and in this behalf this defendant alleges, as hereinbefore stated, that its rights in and to said lands are based upon and derived from a valid and legal location of said lands, and upon a valid and legal conveyance of said mining claim covering said lands, from said original locators to this defendant.

## VIII.

Denies that this defendant was not at the date of said order of withdrawal of September 27, 1909, a *bona fide* occupant or claimant of said lands; and in

this behalf the defendant alleges that on said date it was a *bona fide* occupant, and claimant, and the equitable owner of said lands, as the assignee and grantee of said original mining claim covering said lands, and as the assignee and grantee of the persons who discovered mineral thereon on the 13th day of February, 1907, and who located the same in compliance with the provisions of the Revised Statutes of the United States covering the location of mining claims.

## IX.

Admits that this defendant claims said lands under a location notice posted and filed in the names of Chas. Togni, U. D. Switzer (also known as Paul Switzer), E. C. Farnsworth, A. R. Orr, M. T. Mills, C. J. Giddings, L. C. Hyde, and W. B. Wallace, under the name of the Consolidated Placer Mining Claim, and that said location notice under which said defendant claims is dated February 13, 1907. [23]

## X.

Denies that said location notice was filed and posted or was filed or posted by or for the sole benefit, or the benefit at all, of this defendant, Devil's Den Consolidated Oil Company; and denies that the names of said locators were, or that the name of any of them was, employed and used, or was or were employed or used, by said defendant to enable it to acquire more than twenty acres of mineral land, or to acquire any amount of mineral land in violation of the laws of the United States. Denies that said persons whose names appear in said location notice were not *bona fide* locators and denies that

each or any of said persons was without an interest in said location notice so filed, and denies that their names were not used to enable them, or any of them, to secure said land themselves, or to secure patent therefor for themselves; denies that each or that any of said persons named was a dummy used by said defendant company for its benefit; and in this behalf this defendant alleges that said location notice was filed and posted by the persons whose names are set forth by the plaintiff in its complaint, through an agent acting for and representing them, in good faith and for the purpose of acquiring the said land and the minerals contained therein for themselves, and not for the benefit of this defendant or any other person or persons.

#### XI.

Denies that on May 30, 1907, or that at any time the defendant Devil's Den Consolidated Oil Company carried out its alleged original plan to unlawfully acquire more than twenty acres of mineral land under one location made by it, or for its benefit, by causing said persons, whose names the plaintiff alleges were used as dummies, to convey to it by deed the said land [24] described in said complaint; and in this behalf the said defendant alleges that on May 30, 1907, the said original locators acting in good faith, and in their own interest, and in the interest of each of them, conveyed the said lands to this defendant; that the said persons so conveying the said lands were on said date stockholders in this defendant corporation, and that as this defendant is informed and believes and therefore alleges the

fact to be, they so executed the said conveyance in order to increase the value of their stock in this defendant corporation and to enable the said persons to perform the necessary assessment work thereon more conveniently, satisfactorily and economically to themselves.

## XII.

Denies that because of the matters alleged in plaintiff's complaint, or for any reason, this defendant has no right, title or interest in or to or lien upon said lands, or any part thereof, or any right, title or interest in or to the petroleum, mineral oil or gas deposited therein, or any right to extract the petroleum or mineral oil or gas from said land, or to convert or dispose of the petroleum and gas so extracted, or any part thereof; denies that the acts of this defendant in entering upon said lands and drilling oil wells thereon, and using and appropriating the petroleum and gas deposited therein, were in violation of the laws of the United States or of the aforesaid order withdrawing and reserving said lands, or that any act or acts at any time done by this defendant with respect to said lands was or were in violation of any law of the United States, or of any order withdrawing or attempting or purporting to withdraw the said lands; denies that any act done by this defendant was and is, or was or is, in violation of any right of the plaintiff, or that any act of this defendant [25] interferes with the execution by the complainant of its public policies with respect to said lands, or to any part of said lands.

## XIII.

Defendant denies that plaintiff is without redress or adequate remedy save by this suit, or that this suit is necessary to avoid multiplicity of actions.

By way of a further, separate and affirmative answer and defense to plaintiff's complaint, this defendant alleges that its grantors and predecessors in interest made a valid discovery of mineral upon the said northeast quarter of section thirty (30) township twenty-six (26) south, range twenty-one (21) east, M. D. B. & M., and duly located the same as a mining claim, on the 13th day of February, 1907, while said lands were unoccupied public lands of the United States, open to exploration and location for minerals, under the provisions of the revised statutes of the United States, and before any withdrawal thereof; and that this defendant and its grantors, and predecessors in interest have held and worked the said lands described in said complaint, namely: The said northeast quarter of section thirty (30), township twenty-six (26) south, range twenty-one (21) east, M. D. B. & M., as a mining claim, for a period equal to the time prescribed by the statute of limitations for mining claims, of the State of California, in which state the said lands are located, to wit, for a period of five (5) years, prior to the commencement of this action without any adverse claim being made in or to said lands, or to any part thereof; and that this defendant by reason of said facts is now [26] the true, equitable owner of said land and entitled to a patent thereto from the Government of the



United States under the provisions of Section 2332 of the Revised Statutes of the United States.

For a further, separate and distinct answer and defense herein this defendant alleges that plaintiff has a plain, speedy and adequate remedy at law by an action in ejectment or by an action for conversion, and that this suit should have been brought as an action on the law side of this Honorable Court, and that it should be transferred to the law side and there be proceeded with.

WHEREFORE, this defendant prays that this suit be forthwith transferred to the law side of this Honorable Court, and that the same be there proceeded with, with only such alterations in the pleadings as shall be essential, and that complainant take nothing by this action as against this defendant, and that the action be dismissed and this defendant recover its costs and disbursements herein expended.

D. E. PERKINS,  
JOSEPH REDDING,  
MORRISON, DUNNE & BROBECK,  
A. F. MORRISON,

Solicitors for said Defendant. [27]

Receipt of a copy of the within Answer by Devil's Den Consolidated Oil Co. is hereby admitted this 13th day of October, 1915.

E. J. JUSTICE,  
K.,  
Solicitor for Plaintiff.

[Endorsed]: In Equity—No. A-37. United States District Court, Northern Division, Ninth Circuit, Southern District of California. United States of

America, Plaintiff, vs. Devil's Den Consolidated Oil Company et al., Defendants. Answer by Devil's Den Consolidated Oil Company. Filed Oct. 14, 1915. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy. Joseph D. Redding, D. E. Perkins, Morrison, Dunne & Brobeck, Crocker Building, San Francisco, Cal., Solicitors for said Defendant. [28]

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*In the District Court of the United States for the Southern District of California, Northern Division, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY ASSOCIATED OIL COMPANY and STANDARD OIL COMPANY,

Defendants.

**Amended Answer of Devil's Den Consolidated Oil Company.**

Comes now defendant Devil's Den Consolidated Oil Company, one of the defendants in the above-entitled action, and by leave of court first had and obtained, files this its amended answer to the complaint of plaintiff therein, and in answer to the said complaint of said plaintiff, admits and denies as follows:

I.

Admits that the plaintiff holds the legal title to

the property referred to and described in paragraph II of said complaint, but denies that said plaintiff is entitled to the possession of the said lands, or to any part thereof, or to the possession of the oil, petroleum, gas and all other minerals, or to the possession of any mineral contained in said lands, and in this behalf the said defendant alleges that it is and ever since the 30th day of May, 1907, has been entitled to the possession of the said lands described in said paragraph II, and to the possession of the oil, petroleum, gas and all other minerals [29] contained therein, and is the equitable owner of said lands and is entitled to the execution by the plaintiff of a patent to it, conveying to it the legal title to said lands and to all the minerals contained therein.

## II.

Admits that on the 27th day of September, 1909, the President of the United States legally withdrew and reserved certain land from mineral exploration and from all the forms of location or settlement, selection, filing, entry, patent, occupation, or disposal under the mineral and nonmineral land laws of the United States, but denies that by said order the lands described in paragraph II of said complaint, which said lands, as heretofore alleged, are in the lawful possession of this defendant, were in any manner affected, or that the rights of this plaintiff were in any manner affected thereby; that in and by the terms of said order or withdrawal it was provided that all locations or claims existing and valid on the date of said withdrawal might proceed to entry in the usual manner after filing,

investigation and examination, and that the land described in paragraph II of said complaint, at all times since the 13th day of February, 1907, has been and now is a valid location and claim within the meaning, purport and effect of the said proviso to the said withdrawal order.

### III.

Denies that in violation of the proprietary and other rights of the plaintiff, and in violation of the laws of the United States, and lawful orders and proclamations of the President of the United States, and in violation of said order of withdrawal of the 27th of September, 1909, or that in violation of any right of the plaintiff or of any law of the United States or of any proclamation of the President of the United States, the [30] said defendant entered upon the said lands described in said complaint, or upon any part thereof long, or at all, subsequent to the 27th day of September, 1909, for the purpose of exploring said land for petroleum and gas, or for any purpose, and in this behalf the said defendant alleges that it, and its assignors and predecessors in interest, have been in the lawful possession of the said land since the 13th day of February, 1907.

### IV.

Admits that this defendant had not discovered petroleum or gas on said land on or before the 27th day of September, 1909, but denies that the said defendant had not discovered other mineral on said land on or before said date and denies that it had acquired no rights on or with respect to said land

on or prior to said date and in this behalf the said defendant alleges that, its assignors and predecessors in interest, through whom this defendant derails its title, discovered a mineral, to wit, gypsum, on said land long before the 27th day of September, 1909, to wit, on the 13th day of February, 1907, and that by virtue of said discovery and the due posting and recording of a valid location notice and by virtue of the performance of the annual labor and assessment work required by statute, and the due performance by it, and by its predecessors in interest of all the requirements of the laws relating thereto, this defendant acquired rights on and with respect to said lands, which said rights could not lawfully be, and were not, impaired by said withdrawal order of the 27th day of September, 1909.

## V.

Admits that after the said order of withdrawal of September 27, 1909, this defendant discovered petroleum on said land, and has produced and caused to be produced therefrom large [31] quantities of petroleum; that the plaintiff herein has been heretofore apprised of the amount of petroleum so produced by this defendant and the persons to whom said petroleum was sold and the prices received therefor.

## VI.

Admits that this defendant is now extracting oil from said land, but denies that it is now boring oil wells or gas wells thereon, or that it is at all trespassing upon said land; admits that if this defendant continues to procure oil from the said lands that

the said oil so produced will be sold by this defendant, but denies that such sales, or any such sale, will be wrongful or will amount to the conversion of the said oil, and denies that various other trespasses and waste, or any trespass or waste, will be committed upon said lands by this defendant, to the irreparable injury, or to the injury at all of the plaintiff with respect to the conservation, use and disposition of said lands, or with respect to the conservation, use and disposition of the petroleum, oil or gas contained therein, or to the injury of the plaintiff in any manner or for any reason.

## VII.

Admits that the right, title and interest claimed by this defendant in and to said land and in and to the oil, petroleum and gas extracted therefrom, and in and to the proceeds arising from the sale thereof, is predicated upon and derived from a notice of mining location and by conveyance from the original locators thereof, but denies that said notice was, or is a pretended notice, or that said conveyance was made by a pretended locator or locators; denies that such location notice and claim is not valid against the complainant, and denies that no rights have accrued to this defendant thereunder; denies that the claim [32] of this defendant in and to the said lands casts a cloud upon the title of the complainant, or that said claim of this defendant wrongfully interferes with the operation and disposition of said land by said complainant to the great and irreparable injury of the complainant, or to the injury at all of the complainant, and in this behalf

this defendant alleges, as hereinbefore stated, that its rights in and to said lands are based upon and derived from a valid and legal location of said lands, and upon a valid and legal conveyance of said mining claim covering said lands, from said original locators to this defendant.

#### VIII.

Denies that this defendant was not at the date of said order of withdrawal of September 27, 1909, a *bona fide* occupant or claimant of said lands; and in this behalf the defendant alleges that on said date it was a *bona fide* occupant, and claimant, and the equitable owner of said lands, as the assignee and grantee of said original mining claim covering said lands, and as the assignee and grantee of the persons who discovered mineral thereon on the 13th day of February, 1907, and who located the same in compliance with the provisions of the Revised Statutes of the United States covering the location of mining claims.

#### IX.

Admits that this defendant claims said lands under a location notice posted and filed in the names of Chas. Togni, U. D. Switzer (also known as Paul Switzer), E. C. Farnsworth, A. R. Orr, M. T. Mills, C. J. Giddings, L. C. Hyde, and W. B. Wallace, under the name of the Consolidated Placer Mining Claim, and that said location notice under which said defendant claims is dated February 13, 1907. [33]

#### X.

Denies that said location notice was filed and posted or was filed or posted by or for the sole bene-

fit, or the benefit at all, of this defendant, Devil's Den Consolidated Oil Company; and denies that the names of said locators were, or that the name of any of them was, employed and used, or was or were employed or used, by said defendant to enable it to acquire more than twenty acres of mineral land, or to acquire any amount of mineral land in violation of the laws of the United States. Denies that said persons whose names appear in said location notice were not *bona fide* locators and denies that each or any of said persons named was a dummy used by said location notice so filed, and denies that their names were not used to enable them, or any of them, to secure said land themselves, or to secure patent therefor for themselves; denies that each or that any of said persons named was a dummy used by said defendant company for its benefit; and in this behalf this defendant alleges that said location notice was filed and posted by the persons whose names are set forth by the plaintiff in its complaint, through an agent acting for and representing them, in good faith and for the purpose of acquiring the said land and the minerals contained therein for themselves, and not for the benefit of this defendant or any other person or persons.

## XI.

Denies that on May 30, 1907, or that at any time the defendant Devil's Den Consolidated Oil Company carried out its alleged original plan to unlawfully acquire more than twenty acres of mineral land under one location made by it, or for its benefit, by causing said persons, whose names the plaintiff al-



leges were used as dummies, to convey to it by deed the said land [34] described in said complaint; and in this behalf the said defendant alleges that on May 30, 1907, the said original locators acting in good faith, and in their own interest, and in the interest of each of them, conveyed the said lands to this defendant; that the said persons so conveying the said lands were on said date stockholders in this defendant corporation, and that as this defendant is informed and believes, and therefore alleges the fact to be, they so executed the said conveyance in order to increase the value of their stock in this defendant corporation and to enable the said persons to perform the necessary assessment work thereon more conveniently, satisfactorily and economically to themselves.

## XII.

Denies that because of the matters alleged in plaintiff's complaint, or for any reason, this defendant has no right, title or interest in or to or lien upon said lands, or any part thereof, or any right, title or interest in or to the petroleum, mineral oil or gas deposited therein, or any right to extract the petroleum or mineral oil or gas from said land, or to convert or dispose of the petroleum and gas so extracted, or any part thereof; denies that the acts of this defendant in entering upon said lands and drilling oil wells thereon, and using and appropriating the petroleum and gas deposited therein, were in violation of the laws of the United States or of the aforesaid order withdrawing and reserving said lands, or that any act or acts at any time done by

this defendant with respect to said lands was or were in violation of any law of the United States, or of [35] any order withdrawing or attempting or purporting to withdraw the said lands; denies that any act done by this defendant was and is, or was or is, in violation of any right of the plaintiff, or that any act of this defendant interferes with the execution by the complainant of its public policies with respect to said lands, or to any part of said lands.

### XIII.

Defendant denies that plaintiff is without redress or adequate remedy save by this suit, or that this suit is necessary to avoid multiplicity of actions.

By way of a further, separate and affirmative answer and defense to plaintiff's complaint, this defendant alleges that its grantors and predecessors in interest made a valid discovery of mineral upon the said northeast quarter of section thirty (30), township twenty-six (26) south, range twenty-one (21) east, M. D. B. & M., and duly located the same as a mining claim, on the 13th day of February, 1907, while said lands were unoccupied public lands of the United States, open to exploration and location for minerals, under the provisions of the Revised Statutes of the United States, and before any withdrawal thereof; and that this defendant and its grantors, and predecessors in interest have held and worked the said lands [36] described in said complaint, namely: The said Northeast quarter of section thirty (30), township twenty-six (26) south, range twenty-one (21) east, M. D. B. & M., as a mining claim, for a period equal to the time pre-

scribed by the statute of limitations for mining claims, of the State of California, in which state the said lands are located, to wit, for a period of five (5) years, prior to the commencement of this action without any adverse claim being made in or to said lands, or to any part thereof; and that this defendant by reason of said facts is now the true, equitable owner of said land and entitled to a patent thereto from the government of the United States under the provisions of section 2332 of the Revised Statutes of the United States.

For a further, separate and distinct answer and defense herein, this defendant alleges that plaintiff has a plain, speedy and adequate remedy at law by an action in ejectment or by an action for conversion, and that this suit should have been brought as an action on the law side of this Honorable Court, and that it should be transferred to the law side and there be proceeded with. [37]

For a further separate and affirmative defense to plaintiff's bill of complaint the said defendant alleges that this court has no jurisdiction to try the matter set forth in said bill of complaint, or the title to the land described in said complaint, or the right to possession of said land, or any part thereof, or the right, title, interest or claim in or to the petroleum, mineral oil or gas deposited and being therein, or the right of said defendant to extract petroleum, gas or other minerals from said land, and in this behalf the said defendant alleges:

#### I.

That the defendant Devil's Den Consolidated Oil

Company now is and at all times herein mentioned was a corporation organized and existing under the laws of the State of California, and authorized and empowered to locate mining claims upon the public lands of the United States under the laws relating thereto.

## II.

That the following-described land, to wit, the northeast quarter of section 30, township 26 south, range 21 east, M. D. B. & M., being the land mentioned in plaintiff's complaint, was on the 13th day of February, 1907, and long prior thereto, public land of the United States, open to location and appropriation under the laws of the United States relating to what are usually known as "Placers" or placer mining ground, and as such was chiefly and only valuable for the petroleum and gypsum therein contained, and ever since said 13th day of February, 1907, continuously down to the present date, and at the time of the commencement of this action, the disposition and disposal of said land was, and now is, under the exclusive jurisdiction and control of the General Land Department of the United States, the Commissioner [38] of the General Land Office and the Secretary of the Interior of the United States.

## III.

That on the 13th day of February, 1907, Charles Togni, U. D. Sweitzer (also known as Paul Sweitzer), E. C. Farnsworth, L. C. Hyde, W. B. Wallace, M. T. Mills, C. J. Giddings, and A. R. Orr, each and all of whom were then and there citizens of the

United States, entered upon and took possession of said northeast quarter of said section 30, township 26 south, range 21 east, M. D. B. & M., and duly located the same as a placer mining claim under the laws of the United States, which said placer mining claim was to be known as, and was called, the "Consolidated Placer Mining Claim," and did duly post thereon a notice of location, and did duly file for record in the office of the County Recorder of the County of Kern, California, in Book 40 of Mining Records, page 286, said notice of location, which said notice of location was duly recorded on the 23d day of February, 1907.

IV.

That thereafter, and on or about the 30th day of May, 1907, said last-named locators made, executed and delivered their deed wherein and whereby they conveyed said northeast quarter of said section 30, and all of their right, title and interest therein to said defendant Devil's Den Consolidated Oil Company.

V.

That ever since said 13th day of February, 1907, the said land has been in the actual, peaceable, open, notorious, continuous, exclusive and undisputed possession of the said Devil's Den Consolidated Oil Company, and its predecessors in interest, the said locators of said mining claim, and that during each year since the said year 1907, more than one hundred dollars (\$100) [39] has been expended upon said land in work and improvements thereon, and in the development thereof; that the said last-named lo-

cators, prior to said location of said land, discovered thereon large valuable and extensive deposits of gypsum of good commercial quality, and that the same have been opened up and developed; that the value of labor and improvements done and made for the purpose of developing the gypsum deposits in said land exceeds the sum of five hundred dollars (\$500); that during the year 1910, this defendant caused a well to be drilled on said land for the purpose of exploring for and developing petroleum oil; that when said well was completed, it produced oil of about 300 barrels or more per day of 24 hours; that the value and cost of said well exceeded the sum of three thousand dollars (\$3,000).

## VI.

That said land contains no known lodes, and is valuable for its placer mineral contents only, and has no value for purposes of agriculture or timber or stone, nor is there any water therein, nor is there any stream of water nor watercourse running through the same; that no adverse claim has ever been made to said northeast quarter of section 30, nor to any part thereof, except the claim of the Government, as hereinafter stated.

## VII.

That thereafter, and on or about the 2d day of August, 1911, and long prior to the commencement of the above-entitled action, the said defendant Devil's Den Consolidated Oil Company did duly make and file its application for patent in the proper land office of the United States, to wit, the United States Land Office at Visalia, California, wherein

and whereby it did apply to the United States of America and to the General Land Department [40] thereof, in accordance with the requirements of law, for a patent to said northeast quarter of section 30, township 26 south, range 21 east, M. D. B. & M.; that said application was numbered Mineral Entry No. 03280, and was known as such in said United States Land Office at Visalia, California.

### VII.

That said application for said patent was made for and on behalf of said defendant by I. T. Bell, who was duly designated, authorized and empowered by resolution of the directors of said defendant company to make on its behalf all necessary affidavits and other papers pertaining to said application; that said I. T. Bell was at said time, and now is, a person conversant with all of the facts sought to be established by the affidavits presented in support of said application for patent; that said application for patent was in the form of an affidavit, and was accompanied by other affidavits in support thereof; that said affidavit of application for patent set forth the authority of affiant, to wit, said I. T. Bell, to make application for patent to said land, the company's qualification to make such application and to acquire a patent, the location of said placer mining land, with the names of the locators, the transfer of said land by the original locators to said defendant, the possession by said defendant and its predecessors in interest continuously from the said 13th day of February, 1907, down to the date of making said application, the extent of the work done in developing

gypsum and petroleum in said land, the amount of money that had been expended in developing the same, the fact that there were no intervening rights to said land; that the land had no streams or body of water on or adjoining said land, and no growth of timber thereon, and that the land [41] was of no value for any other purpose than for grazing and for producing gypsum and petroleum, and finally asked for a patent to said land; that the affidavits accompanying said application for patent duly set forth all the matters required by law, in order to entitle the said applicant to a patent to the said land; that in particular there was filed with said application for patent:

(1) Supplemental and corroborative affidavit made by John E. Henry and Russell Mills relative to the character of the said land, and the mineral contained therein and the improvements made thereon;

(2) A certified copy of the notice of location of said mining claim embracing said northeast quarter of said section 30;

(3) A certified copy of the articles of incorporation of said Devil's Den Consolidated Oil Company;

(4) A certified copy of the resolution appointing the said I. T. Bell to make all papers necessary in connection with said application for patent;

(5) The affidavit of I. T. Bell that he duly posted notice of the intention of said applicant to apply for a patent to said land;

(6) The affidavit of W. E. Jones and R. O. Buckley that they witnessed the posting of the said notice of intention to apply for a patent to said land;



(7) A copy of the notice of application for patent to said land, signed by this defendant.

(8) An affidavit of John E. Henry and Russell Mills, setting forth the absence of veins or lodes within said land;

(9) A copy of the agreement entered into with the publisher of the "Delano Record," a weekly newspaper, by which [42] agreement the said publisher agreed to publish the said notice of intention to apply for patent on the terms set forth therein and required by law;

That said application for patent set forth all the matters and things required by law, and was accompanied by all of the documents required by law, in due form and duly executed; that with said application for patent was duly filed an abstract of title, made by a duly authorized abstract company, which company was competent to make abstracts of title to lands in Kern County, which said abstract of title showed and established that the record title of said land and mining claim, according to said records, was vested in this defendant company at the time of making the said application for patent.

#### VIII.

That upon the filing of said application for patent, the Register of the United States Land Office at Visalia, California, gave due notice on or about the 3d day of August, 1911, that said Devil's Den Consolidated Oil Company had made application for patent to said northeast quarter of section 30, township 26 south, range 21 east, M. D. B. & M., as required by law, which said notice was published in the "De-

lano Record," a weekly newspaper published in the town of Delano, county of Kern, California, in each issue of said paper for ten (10) consecutive weeks, the first publication being on the 3d day of August, 1911, and the last publication being on the 5th day of October, 1911, all of which facts appear, and due proof thereof was made in the affidavit of C. H. Seiders, filed in said application for patent to said land, which said affidavit was duly and regularly subscribed and sworn to; that said "Delano Record" in which said notice was published, is a newspaper of established character and general circulation and was designated by said Register as the newspaper in which said [43] *said* notice was to be published, and as the newspaper nearest said land; that thereafter in said proceedings for application for patent there was filed an affidavit of I. T. Bell of continuous posting of said notice given by said Devil's Den Consolidated Oil Company of its intention to apply for patent for said land, setting forth that said notice of intention was conspicuously posted upon said land on the 30th day of July, 1911, and that said notice remained continuously and conspicuously posted upon said land from the said 20th day of July, 1911, to and including the 5th day of October, 1911; that there was also filed another affidavit duly executed by said I. T. Bell, wherein he made a sworn statement of the sums of money paid by said applicant in the prosecution of said application for patent to said northeast quarter of section 30, township 26 south, range 21 east, M. D. B. & M.

## X.

That thereafter said Devil's Den Consolidated Oil Company did duly make its application in writing to the Register and Receiver of the United States Land Office at Visalia, California, to purchase said mining claim embracing said northeast quarter of section 30, township 26 south, range 21 east, M. D. B. & M., containing one hundred and sixty (160) acres, and therein did agree to pay therefor the sum of four hundred dollars (\$400), the same being the legal price therefor; that thereafter and on the 31st day of October, 1911, the said defendant Devil's Den Consolidated Oil Company paid to the plaintiff herein to and through the Receiver of public moneys at the United States Land Office at Visalia, California, the said sum of four hundred dollars (\$400), in full payment for the said land, and did receive therefor the receipt of said receiver of the public moneys in the United States Land Office at Visalia, California; and the said receiver did duly issue to said Devil's [44] Den Consolidated Oil Company the regular and legal receipt in duplicate for the sum paid by this defendant, and thereupon the Register and Receiver of said Land Office did forward one of said duplicate receipts with the entire record in said application for patent proceedings to the Honorable Commissioner of the General Land Office of the United States for his inspection and approval, and said proceedings ever since have been, and now are pending before said Honorable Commissioner of said General Land Office; that on the 10th day of November, 1911, the Chief of the Field Division of the Land Department

of the United States reported a protest on said land by stamping "protest" on said application.

### XI.

That thereafter, and on or about the 2d day of September, 1915, this defendant was notified that a special agent of the United States Land Office had filed certain charges against the validity of its said Mineral Application Entry No. 03280, a copy of which said charges is hereto annexed, marked Exhibit "A," and made a part hereof; that thereafter, and on the 22d day of September, 1915, this defendant by John Daniel, its vice-president, duly filed its answer to said charges in the United States Land Office, a copy of which said answer is hereunto annexed, marked Exhibit "B," and made a part hereof; that as hereinbefore alleged, the application of this defendant for patent to said land is still pending and undisposed of; that the Commissioner of the General Land Office, as head of said General Land Department of the United States, has not made nor rendered any decision upon said application for patent, nor has the Secretary of the Interior, or any other officer, qualified so to do, made or rendered any decision thereon; that under the circumstances herein alleged, all of the matters [45] set up in plaintiff's bill of complaint herein, are under the exclusive control and jurisdiction of the Secretary of the Interior of the United States and the Commissioner of the General Land Office of the United States; that this court has no jurisdiction or authority to interfere with the exercise of said exclusive control and jurisdiction of said Secretary of the In-

terior and of said Commissioner of the General Land Office, or to proceed with the hearing of this action while said application for patent proceedings is pending.

This defendant further alleges that the value of the land referred to and described in plaintiff's bill of complaint and the value of the oil, petroleum, and gas contained therein are, and the value of each of them is, in excess of one thousand dollars (\$1,000), and further alleges that the matter in controversy in the above-entitled suit exceeds one thousand dollars (\$1,000), besides costs.

WHEREFORE, this defendant prays that plaintiff take nothing by this action as against this defendant, and that it be dismissed with its costs and disbursements herein expended.

JOS. D. REDDING,

MORRISON, DUNNE & BROBECK,

Attorneys for Devil's Den Consolidated Oil Company. [46]

State of California,

City and County of San Francisco,—ss.

Geo. T. Cameron, being first duly sworn, deposes and says:

That he is an officer, to wit, the president of Devil's Den Consolidated Oil Company, a corporation, one of the defendants in the foregoing Amended Answer; that he has read said Amended Answer and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated upon information or belief, and

as to those matters that he believes it to be true.

GEO. T. CAMERON.

Subscribed and sworn to before me, this 25th day of June, 1916.

[Seal]

R. B. TREAT,

Notary Public in and for the City and County of San Francisco, State of California. [47]

**Exhibit "A" to Amended Answer of Devil's Den  
Con. Oil Co.**

4—018a.

DEPARTMENT OF THE INTERIOR.  
UNITED STATES LAND OFFICE.

Visalia, California,  
Place

September 2, 1915.  
Date.

R. A. Morton,  
Crocker Bldg.,  
S. F., Calif.

Sir:

By authority of General Land Office letter "FS" dated August 27, 1915, you are hereby notified that a special agent of that office has filed the following charges against the validity of your Mineral Application entry, No. 03280, made August 2, 1911, for NE. 1/4, Sec. 30, T 26 S., R 21 E., M. D. M., to wit:

1. "That no discovery of oil or gas has been made upon the NE. 1/4 Sec. 30, T. 26 S., R 21 E. M. D. M. at date of withdrawal of September 27, 1909, nor at the date of withdrawal of July 2,

1910, nor was the applicant company, or its predecessors in interest, in diligent prosecution of work leading to a discovery of oil or gas in the above-described land at the date of the aforesaid withdrawals.

2. "That the said mineral application was not made with the *bona fide* purpose of developing a gypsum placer claim, but said gypsum placer application was made for the purpose of obtaining title to valuable oil lands by a subterfuge.
3. "That the location of the consolidated placer mining claim for the NE.  $\frac{1}{4}$  Sec. 30, T. 26 S., R. 21, E. M. D. M. by Charles Togni, Paul Sweitzer (sometimes known as U. D. Sweitzer) E. C. Farnsworth, A. R. Orr, M. T. Mills, C. J. Giddings, L. C. Hyde, and W. B. Wallace, as a purported association, was in fact made by the Devil's Den Consolidated Oil Company, a corporation, for its sole use and benefit, through the use and employment, with their full knowledge and consent, of the names of the alleged locators, with the purpose and intent, by such device, fraud and concealment to secure thereby unlawfully, in fraud of the law, and in direct violation of section 2331 of the United States Revised Statutes, a greater area of mineral land than may be lawfully embraced in a single location by a corporation.  
[48]

4. "That Charles Togni, Paul Sweitzer (sometimes known as U. D. Sweitzer), E. C. Farnsworth,

A. R. Orr, M. T. Mills, C. J. Giddings, L. S. Hyde and W. B. Wallace, did not in good faith locate, and file location of notice for the above-described placer claim with the intent that the legal title to the land embraced in said claim should be acquired pursuant to the laws of the United States governing the location, entry, or disposition, of public lands and valuable as placer grounds, for their separate and several use and benefit, but each of the above-named persons made location and filed location notices pursuant to an unlawful agreement and understanding, either expressed or implied, entered into by each and every one of the above-named persons, whereby the said location was made and location notice filed in the interest and for the use and benefit, in whole or in part of the Devil's Den Consolidated Oil Company, a corporation, to secure by the aforesaid agreement and device, unlawfully and in violation of Section 2331 United States Revised Statutes, to the said Devil's Den Consolidated Oil Company, a corporation, the control and apparent possessory right to an amount of mineral land in excess of the area that may be lawfully embraced in a single location by a corporation." [49]



**Exhibit "B" to Amended Answer of Devil's Den  
Con. Oil Co.**

Filed Sept. 22, 1915.

In The United States Land Office,  
Visalia, California.

**COPY.**

In the Matter of the Application of THE DEVIL'S  
DEN CONSOLIDATED OIL COMPANY, a  
Corporation, for a Patent to Consolidated  
Placer Mining Claim Embracing NE. 1/4, Sec.  
30, T. 26 S., R. 21 E. M. D. M.

**ANSWER TO CHARGES.**

State of California,

City and County of San Francisco,—ss.

John Daniel, being first duly sworn, deposes and says: That he is a citizen of the United States and a resident of the State of California, and over the age of twenty-one years; that he is the vice-president of the Devil's Den Consolidated Oil Company, a corporation, the applicant for patent above described and makes, verifies and files this answer to charges contained in the letter "FS" of the Commissioner of the General Land Office, dated August 27, 1915; that answering said charges said applicant:

1. Admits that no discovery of oil or gas was made upon the northeast quarter of section 30, Township 26 south, range 21 east, M. D. M., at the date of the withdrawal of September 27, 1909, nor at the date of the withdrawal of July 2, 1910, but denies that said applicant or its predecessors in interest, *was*

not in the diligent prosecution of work leading to a discovery of oil or gas in the above-described land at the date of the aforesaid withdrawals, but, on the contrary, alleges that on and prior to September 27, 1909, and on and prior to July 2, 1910, said applicant was in the diligent prosecution of work leading to the discovery of oil or gas on the above-described land and continued in the diligent prosecution of said work until oil and gas *was* discovered [50] thereon during the year 1910.

2. Denies that said mineral application was not made with the *bona fide* purpose of developing a gypsum placer claim; denies said gypsum placer application was made for the purpose of obtaining title to valuable oil lands by a subterfuge. As a further answer to said second charged applicant demurs thereto and contends that said second charged *does* not state facts sufficient to warrant adverse proceedings against said application or to justify the cancellation of applicant's application.

3. Denies that the location of the Consolidated Placer Mining Claim for northeast quarter, section 30, township 26, south, range 21 east, M. D. M. by Charles Togni, Paul Sweitzer, (sometimes known as U. D. Sweitzer), E. C. Farnsworth, A. R. Orr, M. T. Mills, C. J. Giddings, L. C. Hyde and W. B. Wallace, or by any of them, as a purported association, was in fact made by the Devil's Den Consolidated Oil Company, a corporation, for its sole use and benefit, through the use or employment, with their full knowledge or consent of the names of the alleged locators, or of the names of any of them, with

the purpose or intent, by such, or any, device, fraud or concealment to secure thereby unlawfully, in fraud of the law, or in direct, or any violation of Section 2331 of the United States Revised Statutes, or of any other law, a greater area of mineral land than may be lawfully embraced in a single location by a corporation.

4. Denies that Charles Togni, Paul Sweitzer (sometimes known as U. D. Sweitzer), E. C. Farnsworth, A. R. Orr, M. T. Mills, C. J. Giddings, L. S. Hyde, (or L. C. Hyde), or W. B. Wallace, did not in good faith locate or file location notice for the above-described placer claim with the intent that the legal title to the land embraced in said claim should be acquired pursuant to the laws of the United States governing the location, entry or disposition of public lands and valuable as placer ground, for their separate [51] and several use or benefit, but on the contrary allege that said named locators did in good faith locate, and file location notice for the above-described placer claim with the intent that the legal title to the land embraced in said claim should be acquired pursuant to the laws of the United States governing the location; entry or disposition of public lands and valuable as placer ground for their separate and several use and benefit; and denies that each of the above-named persons made location or filed location notice pursuant to an unlawful agreement, or any agreement, or understanding, either expressed or implied, entered into by each and everyone, or any of the above-named persons, whereby the said location was made or location notice filed in the

interest or for the use or benefit, in whole or in part of the Devil's Den Consolidated Oil Company, a corporation to secure by the aforesaid or by any, agreement or device, unlawfully or in violation to Section 2331 of the United States Revised Statutes, or any of other law, to the said Devil's Den Consolidated Oil Comyany, a corporation, the control, or apparent possessory right to an amount of mineral land in excess of the area that may be lawfully embraced in a single location by a corporation.

Wherefore, applicant asks that a hearing be ordered upon said charges and this answer thereto and that thereupon said charges be dismissed and patent issued to applicant as prayed for in its said application.

Said application hereby appoints Joseph D. Redding, Crocker Building, San Francisco, California, and D. E. Perkins, National Bank of Visalia Building, Visalia, California, as its attorneys herein and requests that all papers relating to said matters be served on its said attorneys.

JOHN DANIEL.

Subscribed and sworn to before me this 20th day of September, 1915.

[Seal]

W. W. HEALEY,

Notary Public in and for the City and County of San Francisco, California. [52]

[Endorsements]:

Receipt of a copy of the within Amended Answer is hereby admitted this 14th day of August, 1916, at 3:55 P. M.

E. J. JUSTICE,  
A. E. CAMPBELL,  
FRANK HALL,  
Attorneys for Plaintiff.

No. A-37. In Equity. United States District Court, Southern District of California. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company et al., Defendants. Amended Answer of Devil's Den Consolidated Oil Co. Filed Aug. 16, 1916 Wm. M. Van Dyke, Clerk. T. F. Green, Deputy. Morrison, Dunne & Brobeck, Crocker Building, San Francisco, Cal., Solicitors for said Defendant. [53]

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*In the District Court of the United States for the Southern District of California, Northern Division, Ninth Circuit.*

No. A-37—IN EQUITY.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY, ASSOCIATED OIL COMPANY  
and STANDARD OIL COMPANY,  
Defendants.

**Answer of Associated Oil Company.**

For answer to the Bill of Complaint in the above suit, the defendant Associated Oil Company in said suit says:

**I.**

Admits the allegations of paragraph I of said Bill of Complaint.

**II.**

Admits that for a long time prior to and on the 27th day of September, 1909, and at all times since said date the plaintiff has held and now holds the legal title to the land described in paragraph II of said Bill of Complaint, but alleges that the defendant Devil's Den Consolidated Oil Company claims and ever since the 30th day of May, 1907, has claimed that it is the equitable owner of said land.

This defendant states that it is without knowledge as to whether or not plaintiff has at any time since said 30th day of May, 1907, been entitled to the possession of said land, and of the oil, petroleum, gas and all other minerals contained in said land, or as to whether or not plaintiff has at any time since said [54]. 30th day of May, 1907, been entitled to the possession of said land, or any part thereof, or of the oil, petroleum, gas or any other mineral contained in said land, or any part thereof, but alleges that said defendant Devil's Den Consolidated Oil Company claims that it is and ever since the 30th day of May, 1907, has been entitled to the possession of said land and of the oil, petroleum, gas and all other minerals contained therein.

## III.

Admits that on the 27th day of September, 1909, the President of the United States, acting by and through the Secretary of the Interior and under the authority legally invested in him so to do, duly and regularly issued a proclamation in the words and figures following, to wit:

“TEMPORARY PETROLEUM WITHDRAWAL  
NO. 5.

In aid of proposed legislation affecting the use and disposition of the petroleum deposits on the public domain all public lands in accompanying lists are hereby temporarily withdrawn from all forms of location, settlement, selection, filing, entry or disposal under the mineral or nonmineral public land laws. All locations or claims existing and valid on this date may proceed to entry in the usual manner after filing, investigation and examination.”

Admits that the land described in paragraph II of said Bill of Complaint was mentioned in the lists accompanying said temporary petroleum withdrawal No. 5 and further admits that since said 27th day of September, 1909, none of the public lands mentioned in said lists on which there were no locations or claims existing and valid on said last-named date have been subject to exploration for mineral oil, petroleum or gas, occupation or the institution of any right under the public land [55] laws of the United States, but alleges that said defendant Devil's Den Consolidated Oil Company claims that the land described in paragraph II of said Bill of Complaint has at all times since the 13th day of

February, 1907, been, and that it now is a valid location and claim within the meaning, purport, intent and effect of the provision in said temporary petroleum withdrawal No. 5, that all locations and claims existing and valid on the 27th day of September, 1909, may proceed to entry in the usual manner after filing, investigation and examination.

#### IV.

Denies upon information and belief that in violation of the proprietary or other rights of the plaintiff or in violation of the laws of the United States or any lawful order or proclamation of the President of the United States, or particularly in violation of the said order of withdrawal of September 27th, 1909, the said defendant Devil's Den Consolidated Oil Company entered upon the land in paragraph II of said Bill of Complaint described long subsequent or at any time subsequent to the 27th day of September, 1909, for the purpose of exploring said land for petroleum and gas, or either or for any other purpose.

#### V.

This defendant states that it is without knowledge as to whether or not said defendant Devil's Den Consolidated Oil Company had not discovered petroleum, gas or other minerals on said land on or before the 27th day of September, 1909, or as to whether or not said defendant had acquired any rights on or with respect to said land on or prior to said date, but alleges that said defendant Devil's Den Consolidated Oil Company claims to have acquired rights on or with respect to said land prior to



said 27th day of September, [56] 1909, and that its rights were not and could not lawfully be affected or impaired by said temporary petroleum withdrawal No. 5.

## VI.

This defendant states that it is without knowledge as to when said defendant discovered petroleum on said land, or as to the quantity of petroleum said defendant has produced or caused to be produced therefrom.

Denies that of the petroleum produced from the land described in paragraph II of said Bill of Complaint large quantities thereof, or any quantity, has been sold and delivered, or sold or delivered, by the defendant Devil's Den Consolidated Oil Company to this defendant, and in this behalf alleges that on the 16th day of January, 1912, and ever since said date the Universal Oil Company, a corporation organized and existing under the laws of the State of California, has been in possession of and has been operating the land described in paragraph II of the Bill of Complaint herein and contiguous lands, and that on or about the 16th day of January, 1912, said Universal Oil Company entered into an agreement with this defendant for the sale and delivery by said Universal Oil Company to this defendant of a certain quantity of crude petroleum to be produced from the land described in paragraph II of the Bill of Complaint herein and from other lands, and that said Universal Oil Company has delivered to this defendant under said agreement a large quantity of crude petroleum, but that this defendant is without

knowledge as to what quantity of crude petroleum, if any, produced from the land described in paragraph II of the Bill of Complaint herein has been delivered to this defendant by said Universal Oil Company.

#### VII.

This defendant states that it is without knowledge as to any [57] of the matters alleged in paragraph VII of said Bill of Complaint, except as to the allegation that the defendant Devil's Den Consolidated Oil Company is now asserting claims to the land described in paragraph II of said Bill of Complaint.

#### VIII.

Denies that this defendant claims any right, title, or interest in said land, or any part thereof, or in the oil, petroleum or gas extracted therefrom, or in or to the proceeds, or any part of the proceeds arising from the sale thereof, or through or by any purchase thereof, except as hereinbefore alleged.

This defendant is informed and believes and upon such information and belief states that the claims of the defendant Devil's Den Consolidated Oil Company are predicated upon and derived from a notice of mining location and by conveyance from the original locators of the land described in paragraph II of said Bill of Complaint, but this defendant states that it is without knowledge as to whether or not said notice of location is a pretended notice, or as to whether or not the claims of said defendant Devil's Den Consolidated Oil Company are valid against complainant.

This defendant denies that complainant is without redress or adequate remedy save by this suit, or that this suit is necessary to avoid a multiplicity of actions.

IX.

This defendant states that it is without knowledge as to the matters alleged in paragraph IX of said Bill of Complaint, but alleges that the defendant Devil's Den Consolidated Oil Company claims that it was at the date of said order of withdrawal of September 27th, 1909, a *bona fide* occupant and claimant of said land, and in the diligent prosecution of work leading to the [58] discovery of oil or gas.

X.

This defendant is informed and believes and upon such information and belief admits that the defendant Devil's Den Consolidated Oil Company claims said land under the location notice dated February 13th, 1907, mentioned and referred to in paragraph X of said Bill of Complaint.

XI.

This defendant states that it is without knowledge as to the matters alleged in paragraph XI of said Bill of Complaint.

XII.

This defendant states that it is without knowledge as to the matters alleged in paragraph XII of said Bill of Complaint.

XIII.

This defendant states that it is without knowledge as to the matters alleged in paragraph XIII of said Bill of Complaint, except as otherwise in this answer alleged.

## XIV.

This defendant states that it is without knowledge as to the present value of the land described in paragraph II of said Bill of Complaint.

For a further, separate and distinct answer and defense herein this defendant alleges that heretofore, to wit, on the 16th day of January, 1912, Universal Oil Company, a corporation organized under the laws of the State of California, entered into an agreement with this defendant in and by which said Universal Oil Company agreed to sell and deliver to this defendant a specified quantity of crude petroleum to be produced from the land described in paragraph II of the Bill of Complaint herein and from contiguous lands, and this defendant in and by said agreement agreed to pay said Universal [59] Oil Company certain specified prices for the oil sold and delivered to this defendant under said agreement; that at the time said agreement was entered into said Universal Oil Company represented to this defendant that it, said Universal Oil Company, then was and for more than three years prior to said time had been in the possession and entitled to the possession of the lands described in said agreement, which said lands included the land described in paragraph II of the Bill of Complaint herein, and that said Universal Oil Company then was and for a number of years prior thereto had been entitled to extract, remove, sell and dispose of the petroleum contained in said lands, and which might then and thereafter be produced therefrom, and that it had good title thereto; that this defendant believed said representations and relied

thereupon, and but for said reliance thereupon would not have entered into said agreement with said Universal Oil Company; that this defendant did not at the time said agreement was entered into or at any other time prior to the commencement of this suit have any knowledge or notice that plaintiff claims that the land described in paragraph II in the Bill of Complaint herein had not been located in good faith by *bona fide* locators, or that the locators named in paragraph X of said Bill of Complaint, or their successors in interest, were not *bona fide* occupants and claimants of said land and in the diligent prosecution of work leading to the discovery of oil or gas on the 27th day of September, 1909, or that said locators were mere dummies used by the defendant Devil's Den Consolidated Oil Company for its benefit, or that any act of said locators of said defendant was in violation of any law of the United States, or of any right of the plaintiff, and that this defendant has not and at no time had any knowledge or notice other than that contained in plaintiff's Bill of Complaint herein that any of said claims of [60] plaintiff is or are true, and that relying upon said representations of said Universal Oil Company and upon the said agreement without notice or knowledge of any of the claims of the plaintiff hereinabove mentioned or referred to, this defendant has under and pursuant to the said agreement for a valuable consideration by this defendant fully paid to said Universal Oil Company prior to the commencement of this suit in good faith purchased and received from said company a large quantity of petroleum produced from the lands

described in said agreement, but what portion thereof, if any, was produced from the land described in paragraph II of said Bill of Complaint, this defendant is unable to state, and this defendant further alleges that said defendant Devil's Den Consolidated Oil Company by itself and those claiming under it has been openly, peaceably, uninterruptedly, continuously and exclusively in the possession and operation of the land described in paragraph II of the Bill of Complaint herein without any adverse claim being made to said land, or any part thereof, by the plaintiff or anyone else for a period of time longer than that prescribed by the statute of limitations of the State of California for the commencement of actions for the *recover* of the possession of real property, to wit, for a period of more than five years prior to the commencement of this suit, and that by the long and unreasonable delay in the assertion of the claims set forth by the plaintiff in its Bill of Complaint herein and by the long and unreasonable delay of the plaintiff herein to sue it was and has been and is guilty of laches, and the alleged cause of action set forth by the plaintiff in its Bill of Complaint herein is barred thereby, and the plaintiff is estopped from maintaining and it would be inequitable to permit plaintiff to maintain this suit against this defendant, or to recover, [61] or to permit plaintiff to recover anything from this defendant.

For a further, separate and distinct answer and defense herein this defendant alleges that there is a nonjoinder of parties defendant herein, in this—that Universal Oil Company is not made a party defend-

ant herein, and in this behalf this defendant alleges that Universal Oil Company is and for a number of years last past has been in possession of and operating the land described in paragraph II of the Bill of Complaint herein and disposing of the petroleum produced by it from said land under the defendant Devil's Den Consolidated Oil Company.

For a further, separate and distinct answer and defense herein this defendant alleges that there is a misjoinder of parties defendant herein, in this—that this defendant is improperly joined with the defendants Devil's Den Consolidated Oil Company and Standard Oil Company.

For a further, separate and distinct answer and defense herein this defendant alleges that plaintiff has a plain, speedy and adequate remedy at law by an action in ejectment, or by an action for conversion, and that this suit should have been brought as an action on the law side of this Honorable Court, and that it should be transferred to the law side and be there proceeded with.

WHEREFORE, this defendant prays that this suit be forthwith transferred to the law side of this Honorable Court and that same be there proceeded with, with only such alteration in the pleadings as shall be essential, and that complainant take nothing by this action as against this defendant, and that this defendant recover its costs herein.

HENRY ACH,  
T.,

EDMUND TAUSZKY,

Solicitors for Defendant Associated Oil Company. [62]

Service of within answer is hereby admitted this  
13th day of October, 1915.  
of October, 1915.

E. J. JUSTICE,  
Special Assistant to the Attorney General.  
K.

[Endorsed]: No. A-37—In Equity. District Court  
of the United States, Southern District of Cali-  
fornia, Northern Division, Ninth Circuit. United  
States of America, Plaintiff, vs. Devil's Den Consoli-  
dated Oil Company, Associated Oil Company, and  
Standard Oil Company, Defendants. Answer of As-  
sociated Oil Company. Filed Oct. 14, 1915. Wm.  
M. Van Dyke, Clerk. By Chas. N. Williams, Deputy  
Clerk. Edmund Tauszky, Henry Ach, Solicitors for  
Deft. Associated Oil Co., San Francisco, Calif. [63]

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*In the District Court of the United States, for the  
Southern District of California, Northern Divi-  
sion, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, and STANDARD OIL COMPANY,  
Defendants.



**Notice of Motion to Have the Jurisdictional Defense  
of the Defendants Separately Heard and Dis-  
posed of.**

To United States of America, Plaintiff Above-  
named, to E. J. Justice and Frank Hall, Its  
Solicitors:

You will please take notice that the defendant,  
Devil's Den Consolidated Oil Company, a corporation  
will move before the Honorable, the United States  
District Court, for the Southern District of Cali-  
fornia, at the courtroom of said Court, in the Federal  
Building, at San Francisco, California, on the 15th  
day of August, 1916, at 10:00 o'clock A. M., or as soon  
thereafter as counsel may be heard in the above-  
entitled cause, for an order to the effect that the juris-  
dictional defense of the said defendant in the above-  
entitled action may be separately heard and disposed  
of on the 1st day of September, 1916, in said court,  
when said court is convened, or as soon thereafter as  
counsel may be heard, or at such time as the Court  
may fix; and that said jurisdictional defense may be  
separately heard and disposed of before the trial of  
the principal case in this action, and before the hear-  
ing and trial upon any other motions or proceedings  
in this case. Said motion will be based on [64]  
Rule 29 and the other pertinent rules of the Rules of  
Practice for the Court of Equity of the United  
States, as promulgated and defined by the Honorable,  
the Supreme Court of the United States of America,  
and upon the complaint and Answer of said defend-

ant on file herein, and particularly upon the further and separate Answer of said defendant raising the question of the jurisdiction of this Honorable Court to hear the said suit on file herein; said motion will be further made and presented upon the ground that the equitable, expeditious, proper and orderly disposal of this action requires that this Honorable Court shall first determine whether or not it has any jurisdiction over the subject matter involved in this suit, or of this defendant.

You will please further take notice that said hearing and disposal of said jurisdictional defense of the said defendant will be based upon all of the pleadings in the above-entitled action and upon proofs of the allegations set up in the Answer of the said defendant, to be introduced by the said defendant at said hearing, and upon affidavits and oral testimony and upon the records in the United States Land Office, and their various departments in San Francisco, California, and Washington, D. C., all of which, or so much thereof as may be necessary, are to be presented and introduced at said hearing.

JOS. D. REDDING,

MORRISON, DUNNE & BROBECK,

Attorneys for said Defendant, Devils Den Consolidated Oil Company. [65]

Receipt of a copy of the within Notice of Motion is hereby admitted this 14th day of August, 1916, at 3:55 P. M.

E. J. JUSTICE

A. E. CAMPBELL,

FRANK HALL,

Attorneys for Plaintiff.

[Endorsed]: No. A-37—In Equity. United States District Court, Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff, vs. Devils Den Consolidated Oil Company et al., Defendants. Notice of Motion to have the Jurisdictional Defense of the Defendants Separately Heard and Disposed of. Filed San Francisco, Aug. 15, 1916. Wm. M. Van Dyke, Clerk. T. F. Green, Deputy. Morrison, Dunne & Brobeck, Crocker Building, San Francisco, Cal., Attorneys for said Defendant. [66]

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*In the District Court of the United States for the Southern Division of California, Northern Division, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVILS'S DEN CONSOLIDATED OIL COMPANY, and STANDARD OIL COMPANY,  
Defendants.

**Notice of Motion for Restraining Order and Receiver.**

To Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company:

You, and each of you, will take notice that the plaintiff, the United States of America, will move, before the United States District Court for the

Southern District of California, and the Judge thereof, Honorable B. F. Bledsoe, United States District Judge, at the courtroom of the said Court in the Federal Building, at Los Angeles, California, on Monday, the 19th day of June, 1916, at 10 o'clock A. M., in the above-entitled cause, for the granting of an order restraining you, and each of you, your officers, agents, servants, and attorneys, from taking or moving from the said premises described in the Bill of Complaint herein, any of the mineral oil or petroleum deposited therein, or any of the gas in or under said land, and from committing in any manner any trespass or waste upon any of said land, or with reference to any of the minerals deposited therein, pending the disposition of [67] the said cause or the further order of this Court.

And you, and each of you, will further take notice that the plaintiff, the United States of America, will then and there move the said Court, and the Judge thereof, in the above-entitled cause for the granting of an order appointing a receiver for the property described in the Bill of Complaint herein, and operated by you, and each of you, and for the oil and petroleum heretofore extracted from said land, to be dealt with by the receiver in such manner as to the Court may seem proper.

The above motions will be submitted upon the verified Bill of Complaint on file herein, affidavits, records, documents, and oral testimony.

Dated this the 10th day of June, 1916.

E. J. JUSTICE,  
FRANK HALL,  
A. E. CAMPBELL,

Solicitors for the Plaintiff, United States of  
America. [68]

(RETURN ON SERVICE OF WRIT.)

United States of America,  
Northern District of California,—ss.

I hereby certify and return that I served the within notice of motion for restraining order and receiver, on O. Sutro, Edmund Tauszky, and Jos. D. Redding, each by handing to and leaving a true and correct copy thereof with, O. Sutro, Edmund Tauszky, and Jos. D. Redding, each personally at the City and County of San Francisco, California, in said district on the 12th day of June, A. D. 1916.

J. B. HOLOHAN,  
United States Marshal.

By I. W. Grover,  
Office Deputy.

[Endorsed]: Marshal's Docket No. 7434. In Equity—No. A-37. In the District Court of the United States for the Ninth Circuit, Northern Div. of California. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company, Defendants. Notice of Motion for Restraining Order and Receiver. Filed Jun. 26, 1916. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk. E. J. Justice, Frank Hall, A. E. Cambell,

Solicitors for the Plaintiff, United States of America. [69]

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At a special January Term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Northern Division, held at the courtroom thereof, in the city of San Francisco, California, on Friday, the twenty-eighth day of July, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable BENJAMIN F. BLEDSOE, District Judge.

No. A-37—EQUITY.

THE UNITED STATES OF AMERICA,  
Complainants,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY et al.,  
Defendants.

**Minutes of Court—July 28, 1916—Order Continuing  
Hearing of Motion for Restraining Order, etc.**

This cause coming on this day to be set down for hearing on the motion of complainant for a restraining order and also on the application of complainant for the appointment of a receiver; E. J. Justice, Esq., A. E. Campbell, Esq., and Frank Hall, Esq., Special Assistants to the U. S. Attorney General, appearing as counsel for the United States; Joseph D. Redding, Esq., appearing as counsel for defendant Devil's Den Consolidated Oil Company; I. Ben-

jamin, one of the official shorthand reporters of this court, being present and acting as such; good cause appearing therefor, it is ordered that this cause be, and the same hereby is continued until Tuesday, the 15th day of August, 1916, at 10 o'clock A. M., for the setting of the same down for said hearing, to be called for the same at San Francisco, California, before Honorable Robert S. Bean, District Judge.

[70]

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*In the District Court of the United States, for the Southern District of California, Northern Division, Ninth Circuit.*

IN EQUITY—No. A-37.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY, ASSOCIATED OIL COMPANY, and STANDARD OIL COMPANY,

Defendants.

**Notice of Motion for Leave to File Amended Answer.**

To the United States of America, Plaintiff in the Above-entitled Action, and to E. J. Justice and Frank Hall, Its Attorneys:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on Tuesday, the 15th day of August, 1916, at the hour of ten o'clock A. M., or as soon thereafter as counsel can be heard at the Federal Building in the City and County of San Fran-

cisco, California, Devil's Den Consolidated Oil Company, one of the defendants in the above-entitled action, will move the Court for leave to file its amended answer, copy of which is herewith served upon you.

Dated San Francisco, August 14, 1916.

JOS. D. REDDING,

MORRISON, DUNNE & BROBECK,

Solicitors for Said Defendant. [71]

Receipt of a copy of the within Notice of Motion is hereby admitted this 14th day of August, 1916, at 3:55 P. M.

E. J. JUSTICE,

A. E. CAMPBELL,

FRANK HALL,

Attorneys for Plaintiff.

[Endorsed]: No. A-37—In Equity. United States District Court, Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff, vs. Devils Den Consolidated Oil Company et al., Defendants. Notice of Motion of Defendant Devil's Den Consolidated Oil Co. to File Amended Answer. Filed San Francisco, Aug. 15, 1916. Wm. M. Van Dyke, Clerk. T. F. Green, Deputy. Joseph D. Redding, Morrison, Dunne & Brobeck, Crocker Building, San Francisco, Cal., Attorneys for Said Defendant. [72]



*In the District Court of the United States, for the  
Southern District of California, Northern Divi-  
sion, Ninth Circuit.*

IN EQUITY—No. A-37.

THE UNITED STATES OF AMERICA,  
Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, ASSOCIATED OIL COMPANY,  
and STANDARD OIL COMPANY,  
Defendants.

**Notice of Motion for Continuance of Hearing of  
Motion for Appointment of Receiver, etc.**

To the United States of America, Plaintiff, in the  
Above-entitled Action, and to E. J. Justice and  
Frank Hall, Its Attorneys:

YOU AND EACH OF YOU WILL PLEASE  
TAKE NOTICE that on Tuesday, the 15th day of  
August, 1916, at the hour of ten o'clock, A. M., or as  
soon thereafter as counsel can be heard at the Fed-  
eral Building in the City and County of San Fran-  
cisco, California, Devil's Den Consolidated Oil Com-  
pany, one of the defendants in the above-entitled  
suit, will move the Court to continue the hearing of  
the motion for the appointment of a receiver and  
for a temporary injunction and on the jurisdictional  
defense interposed and set up by the said defendant,  
until Monday, the 28th day of August, 1916, at the  
hour of ten o'clock A. M., or to such other time as

may by the Court be deemed proper under the circumstances.

Said motion will be based and heard upon the files herein and upon the affidavit of R. L. McWilliams, one of the solicitors for said defendant, a copy of which is hereto attached and made a part hereof.

JOS. D. REDDING,  
MORRISON, DUNNE & BROBECK,  
Solicitors for Said Defendant. [73]

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*In the District Court of the United States, for the Southern District of California, Northern Division, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY, ASSOCIATED OIL COMPANY,  
and STANDARD OIL COMPANY,

Defendants.

**Affidavit of R. L. McWilliams in Support of Motion for Order Continuing Appointment of Receiver, etc.**

State of California,

City and County of San Francisco,—ss.

R. W. McWilliams, being first duly sworn, deposes and says:

That he is one of the solicitors for Devil's Den Con-

solidated Oil Company, one of the defendants in the above-entitled action.

That on July 28, 1916, the above-entitled Court set down the motion for the appointment of a receiver and the motion for a temporary injunction for hearing on August 15, 1916; that as affiant is informed and believes, and therefore alleges the fact to be, on said day and at the time the said matters were set down for hearing, as aforesaid, Mr. Joseph D. Redding, one of the solicitors for the said defendant, informed the Court that he had theretofore served notice that the said defendant desired to take the depositions of several witnesses in Washington, including the deposition of the Commissioner of the General Land Office and the [74] Secretary of the Interior of the United States with particular reference to the jurisdiction of this court to hear the above-entitled suit, or to determine any of the issues therein pending proceedings in the Land Department of the United States, and that it might be that he would not complete the taking of the said depositions in time to enable him to be in San Francisco on the said 15th day of August, 1916.

That thereafter and on or about the 10th day of August, 1916, affiant received from the said Joseph D. Redding, a telegram sent from Washington, D. C., in which the said Joseph D. Redding stated that he had sent a telegram to E. J. Justice, one of the solicitors for the plaintiff herein, stating that he was proceeding with the taking of the depositions above referred to, and that it would undoubtedly take until the middle of the following week before he could finish the taking of said depositions, and that he

would thereby be precluded from reaching San Francisco, before the 20th of August, 1916; that this would necessitate the hearing above referred to being postponed about one week; that the evidence that he was obtaining, and seeking to obtain by said depositions goes to the question of the jurisdiction of the Court, the right of the plaintiff herein to an injunction and to the question of the measure of damages; that upon the receipt of the said telegram affiant communicated with the said E. J. Justice and was informed that he had taken the matter up with Judge Bean who was to preside at the hearing of the said motions;

That the said Joseph D. Redding is one of the solicitors for the said defendant in the above-entitled suit, and that it would not be safe for said defendant to proceed with the hearing of the said matters until the return of the said Joseph D. Redding [75] to San Francisco, and until the arrival of the depositions above referred to.

R. L. McWILLIAMS.

Subscribed and sworn to before me this 14th day of August, 1916.

[Seal] W. W. HEALY,  
Notary Public in and for the City and County of  
San Francisco, State of California. [76]

Receipt of a copy of the within Notice of Motion is hereby admitted this 14th day of August, 1916, at 3:55 P. M.

E. J. JUSTICE,  
A. E. CAMPBELL,  
FRANK HALL,  
Attorneys for Plaintiff.

[Endorsed]: No. A-37—In Equity. United States District Court, Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company et al., Defendants. Notice of Motion of Defd. Devil's Den Consltd. Co. and Affidavit of R. L. McWilliams in Support of Motion for Continuance of Hearing of Plffs. Motion for Temporary Injunction, Appointment of a Receiver and Jurisdictional Question. Filed San Francisco, Aug. 15, 1916. Wm. M. Van Dyke, Clerk. T. F. Green, Deputy. Joseph D. Redding, Morrison, Dunne & Brobeck, Crocker Building, San Francisco, Cal., Attorneys for Said Defendant. [77]

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At a special January Term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Northern Division, held at the courtroom thereof, in the city of San Francisco, California, on Tuesday, the fifteenth day of August, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable ROBERT S. BEAN, District Judge.

No. A-37—EQUITY.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY et al.,

Defendants.

**Minutes of Court—August 15, 1916—Hearing on  
Motion for Restraining Order, etc.**

This cause coming on this day to be heard on complainants' motion for a restraining order, and also to be heard on an application for the appointment of a receiver; Frank Hall, Esq., Special Assistant to the U. S. Attorney General, appearing as counsel for the United States; Peter F. Dunne, Esq., appearing as counsel for defendant Devil's Den Consolidated Oil Company; R. L. McWilliams, Esq., appearing on behalf of Joseph D. Redding, Esq., also of counsel for defendant Devil's Den Consolidated Oil Company; Edmund Tauszky, Esq., appearing as counsel for defendant Associated Oil Company; Oscar Sutro, Esq., appearing as counsel for defendant Standard Oil Company; John P. Doyle, one of the official shorthand reporters of this court, being present and acting as such; and it appearing that defendant Devil's Den Consolidated Oil Company has moved the Court for a continuance of this cause for said hearing; and said motion for a continuance having been argued, in support thereof, by R. L. McWilliams, Esq., appearing on behalf of Joseph D. Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, and by Peter F. Dunne, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, and in opposition thereto by Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States; it is by the Court ordered that this cause be, and the same hereby is continued for said hearing until

Wednesday, the 16th day of August, 1916, at 10 o'clock A. M. [79]

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At a special January Term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Northern Division, held at the courtroom thereof, in the city of San Francisco, California, on Wednesday, the sixteenth day of August, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable ROBERT S. BEAN, District Judge.

No. A-37—EQUITY.

THE UNITED STATES OF AMERICA,  
Complainants,  
vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY et al.,  
Defendants.

**Minutes of Court—August 16, 1916—Hearing on Motion for Restraining Order, etc.**

This cause coming on this day to be heard on defendants' motion for a continuance of this cause for hearing on complainants' motion for a restraining order and an application for the appointment of a receiver herein; Frank Hall, Esq., Special Assistant to the U. S. Attorney General, appearing as counsel for the United States; Earl H. Pier, Esq., and R. L. McWilliams, Esq., appearing on behalf of Joseph D.

Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil Company; Peter F. Dunne, Esq., also appearing as counsel for said defendant Devil's Den Consolidated Oil Company; John P. Doyle, one of the official shorthand reporters of this court, being present and acting as such; and said motion for continuance having been argued, in support thereof, by Earl H. Pier, Esq., and R. L. McWilliams, Esq., appearing as aforesaid on behalf of Joseph D. Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, and by Peter F. Dunne, Esq., of counsel for defendant Devil's Den Consolidated Oil Co., and in opposition thereto by Frank Hall, Esq., Special Assistant [80] to the U. S. Attorney General, of counsel for the United States, it is by the Court ordered that this cause be, and the same hereby is continued for hearing on said motion for injunction and application for appointment of receiver until Monday, the 21st day of August, 1916, at 10 o'clock, A. M., and it is further ordered, on motion of Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States, and with the consent of defendants' counsel in open court, that the testimony of certain witnesses on behalf of complainants on said motion and application may be taken out of order before the Court on Thursday, the 17th day of August, 1916, at 10 o'clock A. M.

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On motion of counsel for defendants, and with the consent in open court of Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States, it is ordered defendant Devil's



Den Consolidated Oil Company be, and hereby is granted leave to file herein its amended answer to the bill of complaint. [81]

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At a special January Term, A. D. 1916, of the District Court, of the United States of America, in and for the Southern District of California, Northern Division, held at the courtroom thereof, in the city of San Francisco, California, on Thursday, the seventeenth day of August, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable ROBERT S. BEAN, District Judge.

No. A-37—EQUITY.

THE UNITED STATES OF AMERICA,  
Complainants,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY et al.,  
Defendants.

**Minutes of Court—August 17, 1916—Hearing on  
Motion for Injunction Pendente Lite, etc.**

This cause coming on this day to be heard on complainants' motion for an injunction *pendente lite*, and also to be heard on an application for appointment of a receiver herein; Frank Hall, Esq., Special Assistant to the U. S. Attorney General, appearing as counsel for the United States; Earl H. Pier, Esq., and R. L. McWilliams, Esq., appearing on behalf

of Joseph D. Redding, Esq., of counsel for the defendant Devil's Den Consolidated Oil Company; Peter F. Dunne, Esq., also appearing as counsel for said defendant Devil's Den Consolidated Oil Company; John P. Doyle, one of the official shorthand reporters of this court, being present and acting as such; and this cause having been continued until, and again called at 2 P. M., for hearing; and it having been stipulated that testimony may this day be taken on said hearing; and counsel and shorthand reporter being present as at the morning session of court; and counsel for the respective parties having now stipulated in open court [82] that the testimony taken and evidence admitted may be used and considered, so far as applicable both in this cause and in cause No. A-57—Equity, N. D., The United States of America, Complainants, vs. Lost Hills Mining Company et al., Defendants; and Joseph Jansen having been called and sworn as a witness on behalf of the United States, and having given his testimony; and, in connection with the testimony of said witness, the Government having offered certain exhibits, which are admitted in evidence in its behalf, to wit: Plffs. Ex. 1, plat of NE.  $\frac{1}{4}$  of Section 30, Tp. 26, R. 21 E., M. D. M., showing gypsum deposits; Plffs. Ex. 2, copy of report, Curtis & Tompkins, analysis of certain samples of gypsum, dated 2/9/1914; Plffs. Ex. 3, copy of report of H. Coffman, analysis of certain samples of gypsum, dated 4/3/1916; Plffs. Ex. 4, copy of report of Smith Emery & Company, determinative as to samples gypsum, dated 12/8/1914; Plffs. Ex. 5, plat made

by witness Jansen, with legend showing exposure of gypsite on W.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  of Section 30, Tp. 26 S., R. 21 E., M. D. M.; Plffs. Ex. 6, photograph showing gypsite in trench located on W.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  of Section 30, Tp. 26 S., R. 21 E., M. D. M.; Plffs. Ex. 7, photograph showing "explanation" marks, with legend, etc., in same trench as shown in Plffs. Ex. 6; Plffs. Ex. 8, photograph showing middle trench gypsite on W.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  of Section 30, Tp. 26 S., R. 21 E., M. D. M., Plffs. Ex. 9, photograph showing east face of middle trench gypsite on same part of said Section 30, Tp. 26 S., R. 21 E., M. D. M.; Plffs. Ex. 10, photograph showing east face of middle trench, near N. end and near S. end, on said W.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  of Section 30, Tp. 26 S., R. 21 E., M. D. M.; Plffs. Ex. 11, photograph, same as Plffs. Ex. 10, same view, with explanation marks and legend; Plffs. Ex. 12, photograph showing gypsite trench, on W.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  of Section 30, Tp. 26 S., R. 21 E., M. D. M., without [83] explanation; Plffs. Ex. 13, photograph, same as Plffs. Ex. 12, with marks of explanation and legend; and Plffs. Ex. 14, photograph showing middle trench gypsite, same location as that shown in Plffs. 13, with explanations and legend; it is by the Court ordered that this cause be, and the same hereby is continued for further hearing until Monday, the 21st day of August, 1916, at 10 o'clock A. M. [84]

At a special January Term, A. D. 1916, of the District Court, of the United States of America, in and for the Southern District of California, Northern Division, held at the courtroom thereof, in the city of San Francisco, California, on Monday, the twenty-first day of August, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable ROBERT S. BEAN, District Judge.

No. A-37—EQUITY.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY et al.,

Defendants.

**Minutes of Court—August 21, 1916 —Hearing on Motion for Injunction Pendente Lite, etc.**

This cause coming on this day to be further heard on complainants' motion for a temporary injunction, and also coming on to be heard on an application for the appointment of a receiver; E. J. Justice, Esq., Frank Hall, Esq., and A. E. Campbell, Esq., Special Assistants to the U. S. Attorney General, appearing as counsel for the United States; Earl H. Pier, Esq., and R. L. McWilliams, Esq., appearing on behalf of Joseph D. Redding, Esq., of counsel for Devil's Den Consolidated Oil Company; Peter F. Dunne, Esq., also appearing as counsel for said defendant Devil's

Den Consolidated Oil Company; Edmund Tauszky, Esq., appearing as counsel for defendant Associated Oil Company; I. Benjamin, one of the official shorthand reporters of this court, being present and acting as such; and Peter F. Dunne, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, having, on behalf of all defendants, objected to any further proceedings in the hearing of the motion for temporary injunction and application for appointment of a receiver until the determination of a question as to the [85] jurisdiction of this Court, thereupon on motion of said counsel for defendants, and with the consent of Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States, it is ordered that said jurisdictional question be now heard, and that in the meantime said motion for injunction and application for appointment of a receiver remain *in statu quo*; and Peter F. Dunne, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, having offered a copy, containing 37 pages, of proceedings before the U. S. Land Office at Visalia, California, *in re* Mineral Application No. 03280, said exhibit is, over the objection of complainants, admitted in evidence as Defendants' Exhibit "A"; and said jurisdictional question having been argued, in opposition to the jurisdiction of the Court herein, by R. L. McWilliams, Esq., appearing on behalf of Joseph D. Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, and by Peter F. Dunne, Esq., of counsel for said defendant Devil's Den Consolidated Oil Company; and, after a recess of court

from the hour of 12 o'clock, M., until the hour of 2 o'clock P. M., of this day, this cause having been again called for hearing on said jurisdictional question; and counsel and shorthand reporter being present as before; and said jurisdictional question having been further argued, in opposition to the jurisdiction of the Court herein, by Peter F. Dunne, Esq., of counsel for defendant Devil's Den Consolidated Oil Company; and in support of the jurisdiction of the Court by Frank Hall, Esq., and E. J. Justice, Esq., Special Assistants to the U. S. Attorney General, of counsel for the United States; it is, at the hour of 5 o'clock, P. M., ordered that this cause be, and the same hereby is continued for further hearing until Tuesday, the 22d day of August, 1916, at 10 o'clock A. M. [86]

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At a special January Term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Northern Division, held at the courtroom thereof, in the city of San Francisco, California, on Tuesday, the twenty-second day of August, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable ROBERT S. BEAN, District Judge.

No. A-37—EQUITY.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY et al.,

Defendants.

**Minutes of Court—August 22, 1916—Order of  
Submission, etc.**

This cause coming on this day to be further heard on a jurisdictional question; E. J. Justice, Esq., and Frank Hall, Esq., Special Assistants to the U. S. Attorney General, appearing as counsel for the United States; Earl H. Pier, Esq., and R. L. McWilliams, Esq., appearing on behalf of Joseph D. Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil Company; Peter F. Dunne, Esq., also appearing as counsel for said defendant Devil's Den Consolidated Oil Company; Edmund Tauszky, Esq., appearing as counsel for defendant Associated Oil Company; I. Benjamin, one of the official shorthand reporters of this court, being present and acting as such; and said jurisdictional question having been further argued, in opposition to the jurisdiction of this cause, by Peter F. Dunne, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, and in support of the jurisdiction of the Court by E. J. Justice, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States; [87] it is ordered that this cause be, and the same

hereby is submitted to the Court for its consideration and decision on said jurisdictional question, and the argument thereof; thereupon, on motion of Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States, and over the objection of Peter F. Dunne, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, it is ordered that, at the hour of 2 o'clock, P. M., of this day, the Court shall proceed with the further hearing of the motion for a temporary injunction and the application for appointment of a receiver; and Court, at the hour of 12:15 o'clock, P. M., having taken a recess until the hour of 2 o'clock, P. M., of this day; and Court, at the hour of 2 o'clock, P. M., having reconvened; and counsel and shorthand reporter being present as before, except that E. J. Justice, Esq., Special Assistant to the U. S. Attorney General, does not now appear as one of complainants' counsel; and counsel for the United States having announced that the Government is ready to proceed with the further hearing of complainants' motion for a temporary injunction and the application for the appointment of a receiver, and Peter F. Dunne, Esq., and R. L. McWilliams, Esq., appearing as aforesaid as counsel for defendant Devil's Den Consolidated Oil Company, having renewed the objection to proceeding with said hearing at this time, and the Court having overruled said objection and ordered that the said hearing proceed, to which ruling of the Court, on motion of said counsel for defendants, and by direction of the Court, exceptions are hereby noted herein on behalf of defendants; it is further ordered that all



testimony and proceedings herein shall apply to and be considered also on the hearing of a similar motion and application in each of the causes Nos. A-52—Equity and A-57—Equity, so far as applicable; and the deposition of Joseph Jansen, taken pursuant to stipulation of counsel, before J. D. [88] Brown, notary public, having been offered by counsel for the Government, it is ordered that said deposition be opened, and filed herein, and also in causes Nos. A-52—Equity and A-57—Equity; and said deposition of Joseph Jansen having been read to the Court by Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States; and, in connection with said deposition, certain exhibits having been offered and admitted in evidence on behalf of the United States, to wit: Plffs. Ex. "A," plat, sectional, of San Joaquin Valley, showing gypsite deposits, etc.; Plffs. Ex. "B.," Circular No. 111, December, 1913, issued by University of California, on the use of lime, gypsum, etc.; Plffs. Ex. "C," sketch, showing gypsum occurrences, etc.; Plffs. Ex. "D," map or plat, showing various methods of sampling; Plffs. Ex. "E," plat showing "Signal Placer" on SE.  $\frac{1}{4}$  of Sec. 30, Township 26 S., R. 21 E.; Plffs. Ex. "F," plat showing gypsite, etc., at "Cd.," on N.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  of Sec. 30, Tp. 26 S., R. 21 E.; Plffs. Ex. "G," plat showing "Lost Hills Placer" on NW.  $\frac{1}{4}$  of Sec. 30, Tp. 26 S., R. 21 E.; Plffs. Ex. "H," plat showing "Petroleum Placer" on NW.  $\frac{1}{4}$  of Sec. 32-26-S. 21-E; Plffs. Ex. "I," plat showing "Eagle Placer" on NE.  $\frac{1}{4}$  of Sec. 32-26-21 E.; Plffs. Ex. "J," plat showing "Judge Placer" on SW.  $\frac{1}{4}$

of Sec. 32-26 S-R. 21 E.; Plffs. "K," copy assayer's certificate, Smith Emery & Co., of Dec. 8, 1914; Plffs. Ex. "L," copy assayer's certificate, H. Coffman, of March 16, 1916; and Plffs. Ex. "M," eleven (11) photographs illustrating certain characteristics of gypsum, character land, etc., with legends attached; and the deposition of Orlando D. Barton, taken before the Register and Receiver of the U. S. Land Office at Visalia, Cal., on February 28, 1916, with certificate attached of said Register and Receiver, having been offered by Frank Hall, Esq., Special Assistant to the U. S. Attorney, of counsel for the United States, it is ordered that said deposition be opened and [89] filed in this cause and causes Nos. A-52—Equity and A-57—Equity; and said deposition of Orlando D. Barton having been read to the Court by said counsel for the Government; and the depositions of George A. Coffey, taken before L. B. Hayhurst, Notary Public, at Fresno, Cal., on April 20, 1916, same having been taken pursuant to stipulations, and having a certificate attached of the Register and Receiver of the U. S. Land Office at Visalia, California, having been offered by said counsel for the Government, it is ordered that same be opened, and filed in this cause and in causes Nos. A-52—Equity and A-57—Equity; and said depositions having been read to the Court by said counsel for the Government; it is, at the hour of 5:05 o'clock P. M., ordered that this cause be, and the same hereby is continued for further hearing until Wednesday, the 23d day of August, 1916, at 10 o'clock A. M. [90]

At a special January Term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Northern Division, held at the courtroom thereof, in the city of San Francisco, California, on Wednesday, the twenty-third day of August, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable ROBERT S. BEAN, District Judge.

No. A-37—EQUITY.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY et al.,

Defendants.

**Minutes of Court—August 23, 1916—Hearing on Motion for Injunction Pendente Lite, etc.**

This cause coming on this day to be further heard on complainants' motion for temporary injunction, and also to be further heard on an application for the appointment of a receiver; E. J. Justice, Esq., and Frank Hall, Esq., Special Assistants to the U. S. Attorney General, appearing as counsel for the United States; Earl H. Pier, Esq., and R. L. McWilliams, Esq., appearing on behalf of Joseph D. Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil Company; Peter F. Dunne, Esq., also appearing as counsel for said defendant Devil's

Den Consolidated Oil Company; Edmund Tauszky, Esq., appearing as counsel for defendant Associated Oil Company; I. Benjamin, one of the official shorthand reporters of this court, being present and acting as such; and Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States, having offered on behalf of complainants copy of depositions of W. L. McLaine and H. E. Covey, taken before T. F. Allen, Notary Public, at Bakersfield, [91] California, April 18, 1916, for use in U. S. General Land Office, with certificate attached of the Register and Receiver of the U. S. Land Office at Visalia, California, which depositions are admitted in evidence herein and read to the Court by said counsel for the United States; and Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States, having offered on behalf of complainants a copy of depositions of L. E. Prestage taken before the U. S. Land Office, at Visalia, California, with certificate attached of Frank Laning, Register of said Land Office, which depositions are admitted in evidence and read to the Court by said counsel for the United States; and Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States, having offered the following affidavits, which are admitted in evidence herein on behalf of the United States, and read to the Court, to wit: Affidavit of Orlando D. Barton, taken before J. S. Clack, Notary Public, on October 19, 1915; affidavit of J. H. Favorite, taken before T. L. Baldwin, Deputy Clerk of the U. S. District Court for the Northern District

of California, on June 9th, 1916; and two affidavits of C. L. McDonald, taken before A. H. Thomas, Notary Public, on August 10th, 1916; and J. G. Dean and D. A. Mulvane having respectively been called and sworn as witnesses on behalf of the United States, and having given their testimony; and, after a recess of court from the hour of 12 o'clock, M., until the hour of 2 o'clock, P. M., of this day, this cause having been again called for further hearing, and counsel and shorthand reporter being present as before; and D. A. Mulvane, a witness on behalf of the United States, having again taken the stand for further examination, and having given his testimony; and P. A. English and Silas F. Gillan having respectively been called and [92] sworn as witnesses on behalf of the United States, and having given their testimony; and, in connection with the testimony of said last-named witness, the Government having offered *and* exhibit, which is admitted in evidence in its behalf, to wit: Plffs. Ex. "N," copy of proof of labor performed on Sec. 30, Tp. 26 S., R. 21 E., M. D. M., as recorded in the Recorder's office of Kern County California; it is, at the hour of 4 o'clock, P. M., ordered that this cause be, and the same hereby is continued for hearing until Thursday, the 24th day of August, 1916, at 10 o'clock A. M.

[93]

At a special January Term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Northern Division, held at the courtroom thereof, in the city of San Francisco, California, on Thursday, the twenty-fourth day of August, in the year of our Lord one thousand nine hundred and sixteen: Present: The Honorable ROBERT S. BEAN, District Judge.

No. A-37—EQUITY.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY et al.,

Defendants.

**Minutes of Court—August 24, 1916—Hearing on Motion for Injunction Pendente Lite, etc.**

This cause coming on this day to be further heard on complainants' motion for a temporary injunction and also to be further heard on an application for the appointment of a receiver; E. J. Justice, Esq., and Frank Hall, Esq., Special Assistants to the U. S. Attorney General, appearing as counsel for the United States; Earl H. Pier, Esq., and R. L. McWilliams, Esq., appearing on behalf of Joseph D. Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil Company; Peter F. Dunne, Esq., also appearing as counsel for said defendant Devil's Den Consolidated Oil Company; Edmund

Tauszky, Esq., appearing as counsel for defendant Associated Oil Company; I. Benjamin, one of the official shorthand reporters of this court, being present and acting as such; it is, on motion of Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States, ordered that the bill of complaint in this cause shall be considered as part of the evidence, etc., on this hearing; and the Government having offered an exhibit, which is admitted in evidence in its behalf, to wit: Plffs. Ex. "O" Oil [94] statement of Devil's Den Consolidated Oil Company, January, 1912, to September, 1915; and the Government having rested on this hearing; and counsel for the respective parties having stipulated that defendant Devil's Den Consolidated Oil Company, be now permitted to introduce evidence in this cause; and R. L. McWilliams, Esq., appearing on behalf of Joseph D. Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, having offered in evidence on this hearing the answer of defendant Devil's Den Consolidated Oil Company to the bill of complaint, to which objection is made on behalf of the Government by Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States, upon which objection the Court reserves ruling and directs that said answer be read; and said answer having been read to the Court by said counsel for defendant Devil's Den Consolidated Oil Company; R. L. McWilliams, Esq., appearing as aforesaid on behalf of Joseph D. Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil

Company, having presented certain affidavits, which are admitted in evidence on behalf of said defendant, and read to the Court, to wit: Defts. Exhibit "B," affidavit of W. B. Wallace, of 10/13/1915, before D. E. Perkins, Notary Public; Defts. Exhibit "C," affidavit of L. C. Hyde before D. E. Perkins, Notary Public; Defts. Exhibit "D," affidavit of C. J. Giddings before D. E. Perkins, Notary Public; Defts. Exhibit "E," affidavit of M. F. Mills, before D. E. Perkins, Notary Public; Defts. Exhibit "F," affidavit of U. D. Switzer, before D. E. Perkins, Notary Public; Defts. Exhibit "G," affidavit of E. C. Farnsworth, before D. E. Perkins, Notary Public; Defts. Exhibit "H," affidavit of Chas. Togni of 10/12/15, before D. E. Perkins, Notary Public; Defts. Exhibit "I," affidavit of A. R. Orr of 10/13/15, before D. E. Perkins, Notary Public; Defts. Exhibit "J," affidavit of O. D. Barton, of 10/13/15, before D. E. Perkins, Notary Public; Defts. Exhibit "K," affidavit of W. B. Wallace of [95] 6/23/1916, before D. E. Perkins, Notary Public; and Defts. Exhibit "L," affidavit of Hugo Fischl, of 10/25/1915, before G. R. Schmidt, Notary Public; and, after a recess of court from the hour of 12 o'clock M., until the hour of 2 o'clock P. M., of this day, this cause having been again called for further hearing, and counsel and shorthand reporter being present as before; and R. A. Morton, a witness on behalf of complainants, having been called, out of order, pursuant to the stipulation in open court of counsel for the respective parties, and having been duly sworn and given his testimony; and Ray N.



Bishop having been called and sworn as a witness on behalf of defendants, and having given his testimony; and, in connection with the testimony of said witness, defendants having offered certain exhibits, which are admitted in evidence in their behalf, to wit: Defts. Ex. "M," photograph taken by W. H. Ochsuer, showing part of NE.  $\frac{1}{4}$  of Sec. 30, Tp. 26 S., R. 21 E., M. D. M.; Defts. Ex. "N," photograph taken by W. H. Ochsuer, showing another view of said quarter section shown in Defts. Ex. "M"; and Defts. Ex. "O," photograph taken by W. H. Ochsuer, showing another view of same quarter section shown in Defts. Exhibits "M" and "N"; and R. L. McWilliams, Esq., appearing on behalf of Joseph D. Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, having offered certain affidavits, which are admitted in evidence and read to the Court by said counsel, to wit: Affidavit of Wm. H. Ochsuer, taken before G. R. Smith, Notary Public, on 10/25/1915, Defendants' Ex. "P"; Defts. Ex. "Q," affidavit of Wm. B. Gester, of 10/16/1915, taken before R. B. Trask, Notary Public; Defts. Ex. "R," affidavit of M. C. Seagrave, of 10/27/1915, taken before R. B. Trask, Notary Public; Defts. Ex. "S," affidavit of R. O. Wrand, of 10/15/1915, taken before H. H. Harris, Notary Public; Defts. Ex. "T," affidavit of T. S. Montgomery, of 6/19/1916, taken before W. W. Healey, Notary Public; [96] Defts. Ex. "U," affidavit of F. M. Eaton, of 10/16/1915, taken before R. B. Trask, Notary Public; Defts. Ex. "V," affidavit of Duncan Anderson, of 10/15/1915, taken before R. B. Trask,

Notary Public; Defts. Ex. "W," affidavit of P. W. Tompkins, of 10/15/1915, taken before R. B. Trask, Notary Public; Defts. Ex. "X," affidavit of Edmund Tauszky, of 7/28/1916, taken before R. B. Trask, Notary Public; and Defts. Exhibits "Y," "Y-1," "Y-2," "Y-3," "Y-4," and "Y-5," each of said exhibits being an affidavit of Rudolph Schwatzlose, with small sample of gypsum attached, dated 10/15/1915, taken before G. R. Schmitt, Notary Public; it is, at the hour of 4:55 o'clock P. M., ordered that this cause be, and the same hereby is continued for further hearing until Friday, the 25th day of August, 1916, at 10 o'clock A. M.

[97]

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At a special January Term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Northern Division, held at the courtroom thereof, in the city of San Francisco, California, on Friday, the twenty-fifth day of August, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable ROBERT S. BEAN, District Judge.

No. A-37—EQUITY.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY

et al.,

Defendants.

**Minutes of Court—August 25, 1916—Hearing on Motion for Injunction Pendente Lite, etc.**

This cause coming on this day to be further heard on complainants' motion for a temporary injunction, and also to be further heard on an application for the appointment of a receiver herein; E. J. Justice, Esq., and Frank Hall, Esq., Special Assistants to the U. S. Attorney General, appearing as counsel for the United States; Earl H. Pier, Esq., and R. L. McWilliams, Esq., appearing on behalf of Joseph D. Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil Company; Peter F. Dunne, Esq., also appearing as counsel for said defendant Devil's Den Consolidated Oil Company; I. Benjamin, one of the official shorthand reporters of this court, being present and acting as such; and Wm. H. Ocshuer, a witness on behalf of defendant Devil's Den Consolidated Oil Company, having again taken the stand for further examination, and having given his testimony; and W. B. Wallace having been called and sworn as a witness on behalf of defendant Devil's Den Consolidated Oil Company, and having given his testimony; and, after a recess of court from the hour of 12 o'clock M., until the hour of 2 o'clock P. M. [98] of this day, this cause having been again called for further hearing, and counsel and shorthand reporter being present as before; and W. B. Wallace, a witness on behalf of defendant Devil's Den Consolidated Oil Company, having again taken the stand for further examination, and having given his testimony; and

R. L. McWilliams, Esq., appearing on behalf of Joseph D. Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, having read to the Court the affidavit of R. A. Morton, with exhibit attached, heretofore on July 22d, 1916, filed herein; and Peter F. Dunne, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, having offered pages 261 to 270, inclusive, from "Mineral Resources of the United States," 1914, which is admitted in evidence as Defts. Ex. "Z," and having also offered a reproduction of Diagram on page 262, volume 2, of said "Mineral Resources of the United States," 1914, which is admitted in evidence as Defts. Ex. "Z-1"; and R. L. McWilliams, Esq., appearing on behalf of Joseph D. Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, having offered a certain affidavit, which is admitted in evidence and by said counsel read to the Court, to wit: Defts. Ex. "A-1," Affidavit of Samuel F. B. Morse, taken before R. B. Trask, Notary Public, on 8/25/1916; it is, at the hour of 4:25 o'clock P. M., ordered that this cause be, and the same hereby is continued until Mouday, the 28th day of August, 1916, at 10 o'clock A. M. [99]

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At a special January Term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Northern Division, held at the courtroom thereof, in the city of San Francisco, California, on Monday, the twenty-eighth day of August,

in the year of our Lord one thousand nine hundred and nineteen. Present: The Honorable ROBERT S. BEAN, District Judge.

No. A-37—EQUITY.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY

et al.,

Defendants.

**Minutes of Court—August 28, 1916—Hearing on  
Motion for Injunction Pendente Lite, etc.**

This cause coming on this day to be further heard on complainants' motion for a temporary injunction, and also to be further heard on an application for the appointment of a receiver; E. J. Justice, Esq., and Frank Hall, Esq., Special Assistants to the U. S. Attorney General, appearing as counsel for the United States; Earl H. Pier, Esq., R. L. McWilliams, Esq., Joseph D. Redding, Esq., and Peter F. Dunne, Esq., appearing as counsel for defendant Devil's Den Consolidated Oil Company; I. Benjamin, one of the official shorthand reporters of this court, being present and acting as such; and W. O. Todd having been called and sworn as a witness on behalf of defendants, and having given his testimony; and Roy A. Bishop, a witness on behalf of defendants, having been again called for further examination, and having given his testimony; and, in connection with the testimony of said witness, defendants having offered certain exhibits, which

are admitted in evidence in their behalf, to wit: Defts. Ex. "A-2" (there being no exhibit marked "A-1"), [100] blue-print, Universal Oil Company, oil pipe-lines, drawn 3/1/1914 by R. B. M., pipe-line located on Sec. 32-26-21; Defts. Ex. "A-3," blue-print, Universal Oil Company, gas pipe-lines, drawn 3/1/1914 by R. B. M., pipe-lines located on Sec. 32-26-21; Defts. Ex. "A-4," blue-print, Universal Oil Company, water pipe-lines, drawn by R. B. M., on 3/1/1914, pipe-lines located on Sec. 32-26-21; Defts. Ex. "A-5," statement marked "Lost Time Record in Hours, Devil's Den Consolidated Oil Company, 6 Months Ending June 30, 1916"; and Defts. Ex. "A-6," Statement marked "Lost Time Record, Universal Oil Co., Six Months Ending June 30, 1916"; and, after a recess of court from the hour of 12:05 o'clock P. M., until the hour of 2 o'clock P. M., of this day, this cause having been again called for further hearing, and counsel and shorthand reporter being present as before; and Roy A. Bishop, a witness on behalf of defendants, having again taken the stand for further examination, and having given his testimony; thereafter, at the hour of 4:35 o'clock P. M., it is ordered that this cause be, and the same hereby is continued for further hearing until Tuesday, the 29th day of August, 1916, at 10 o'clock A. M. [101]

At a special January Term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Northern Division, held at the courtroom thereof, in the city of San Francisco, California, on Tuesday, the twenty-ninth day of August, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable ROBERT S. BEAN, District Judge.

No. A-37—EQUITY.

THE UNITED STATES OF AMERICA,  
Complainants,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY  
et al.,

Defendants.

**Minutes of Court—August 29, 1916—Hearing on  
Motion for Injunction Pendente Lite, etc.**

This cause coming on this day to be further heard on complainants' motion for a temporary injunction, and also to be heard on an application for the appointment of a receiver; E. J. Justice, Esq., and Frank Hall, Esq., Special Assistants to the U. S. Attorney General, appearing as counsel for the United States; Earl H. Pier, Esq., R. L. McWilliams, Esq., and Peter F. Dunne, Esq., appearing as counsel for defendant Devil's Den Consolidated Oil Company; I. Benjamin, one of the official shorthand reporters of this court, being present and acting as such; and R. L. McWilliams, Esq., having offered

an affidavit, which is admitted in evidence on behalf of defendants and read to the Court by said counsel, to wit: Defts. Ex. "A-2," Affidavit of F. M. Anderson, taken before R. B. Trask, Notary Public, on August 25, 1916; and Thomas H. Means having been called and sworn as a witness on behalf of defendants, and having given his testimony; and defendants having rested on this hearing; and Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for [102] the United States, having moved that on behalf of complainants he be allowed to prepare and file herein the affidavit of C. D. Hamel, to which affidavit will be attached three or four other affidavits, made by certain other persons before said C. D. Hamel, as Special Agent of the U. S. Land Department, which motion is opposed by Peter F. Dunne, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, it is ordered that said motion be, and the same hereby is granted, and that, accordingly, complainants be, and hereby are permitted to prepare, serve and file said affidavits within twenty (20) days; and E. D. Latham and J. W. Kingsburg having respectively been called and sworn as witnesses on behalf of the United States in rebuttal, and having given their testimony; and complainants having rested; and the testimony being closed; and, after a recess of court from the hour of 12 o'clock M., until the hour of 2 o'clock P. M., of this day, this cause having been again called for further hearing, and counsel and shorthand reporter being present as before; and said motion for temporary injunction and application for appointment of receiver having been argued,



in support thereof, by Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States, and in opposition thereto by Peter F. Dunne, Esq., and Joseph D. Redding, Esq., of counsel for defendant Devil's Den Consolidated Oil Company, and in support thereof in reply by Frank Hall, Esq., Special Assistant to the U. S. Attorney General, of counsel for the United States; it is, on motion and by agreement, ordered that this cause be, and the same hereby is submitted to the Court for its consideration and decision on said motion of complainants for an injunction *pendente lite*, and upon the pleadings, testimony, exhibits, affidavits filed and to be filed, and the argument of said motion and application, and also upon briefs which may be prepared, served and filed as follows, to wit: One behalf of [103] defendants within ten (10) days, and on behalf of complainants within ten (10) days thereafter, the clerk of this court being directed to prepare a list of exhibits filed herein, furnishing to the Court, complainants and defendants one (1) copy each. [104]

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At a special term, to wit, the special October Term, A. D. 1916, of the District Court of the United States for the Southern District of California, Northern Division, held at the courtroom thereof, in the city of Fresno, California, on Wednesday, the 4th day of October, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable ROBERT S. BEAN, District Judge.

No. A-37—EQUITY.

THE UNITED STATES OF AMERICA,  
Complainants,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY et al.,

Defendants.

**Minutes of Court—October 4, 1914—Order Over-  
ruling Defendant's Plea and Objection to  
Jurisdiction of Court, etc.**

This cause having heretofore been submitted to the Court for its consideration and decision on a plea to the jurisdiction of the Court and on a motion for the issuance of an injunction *pendente lite* herein and on an application for the appointment of a receiver; the Court, having duly considered the same and being fully advised in the premises, now reads its conclusions herein and regarding the matters under submission herein and in causes Nos. A-52—Equity and A-57—Equity, N. D., which conclusions, are not at this time filed, and, pursuant to the Court's ruling in said conclusions, it is ordered that defendants' plea and objection to the jurisdiction of this court herein be, and the same hereby is overruled, and it is further ordered that the motion of complainants for the issuance of an injunction *pendente lite* be, and the same hereby is denied, and it is further ordered that complainants' application for the appointment of a receiver be, and the same hereby is granted for all properties in controversy included in said applica-

tion for appointment of a receiver except the south half (S.1/2) of [105] section 32, township 26 south, range 21 east, M. D. B. & M., and order accordingly to be prepared and presented by counsel for signature and entry. [106]

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*In the District Court of the United States, Southern District of California, Northern Division, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY, ASSOCIATED OIL COMPANY, and STANDARD OIL COMPANY,

Defendants.

**Order Appointing Receiver.**

This suit coming on to be heard on motion of the complainant for the appointment of a receiver and for an injunction, and having been heard on the 21st, 22d, 23d, 24th, 28th and 29th days of August, 1916,—

IT IS NOW CONSIDERED, ORDERED AND ADJUDGED that Howard M. Payne be, and he is hereby appointed a receiver,—and until the further order of this court,—for certain of the properties described in the bill of complaint and herein claimed by the defendant, to wit:

Northeast quarter (NE. 1/4) of Section Thirty (30), Township Twenty-six (26) South, Range

Twenty-one (21) East, M. D. B. & M., and situated in Kern County, California, and of the oil and gas already extracted and still in the possession of the defendant, Devil's Den Consolidated Oil Company.

The said Receiver is directed to receive, and the said defendant, Devil's Den Consolidated Oil Company, is directed to [107] surrender to said receiver all moneys in its hands or under its control, or in the hands of any person or corporation for it, which are the proceeds of the sale of oil or was produced from said lands hereinbefore described and such persons holding such funds are directed to pay the same to said receiver; and the said receiver is directed to collect any notes, accounts, or other evidences of debt due or payable on account of the sale of oil and gas produced from said lands and sold by or for said defendant, the Devil's Den Consolidated Oil Company.

IT IS FURTHER ORDERED that the receiver keep an accurate account of the quantity and quality of oil and gas hereafter produced from said lands herein described and until the further order of this Court, that he dispose of and sell the same at the best price or prices obtainable.

Until the further order of this Court the said defendant, Devil's Den Consolidated Oil Company is hereby permitted to continue the operation and management of the properties hereinbefore described, and no change is to be made in the present status, management, or method of operation of said properties—by the receiver—without the consent of

the said defendant, Devil's Den Consolidated Oil Company, or by order of the Court made after ten days notice to the said defendant; other than such as may be necessary to enable said Receiver to ascertain the present condition of the said properties and to receive and dispose of the output thereof and to keep a record and account thereof.

IT IS FURTHER ORDERED that the said Devil's Den Consolidated Oil Company shall render to the said receiver as soon as practicable after the first of each and every month, a statement of the expenses of the management and operation of said properties for the preceding month, and the said receiver shall out of the proceeds of the sale of the oil and gas from said properties hereinbefore described pay to the said Devil's Den Consolidated Oil [108] Company, forthwith the amount of said expenses of operating and managing said properties as set forth in said statement.

The receiver shall, within ten days after the settlement with the said Devil's Den Consolidated Oil Company for expenditures made for the preceding month, make and file with the clerk of this Court a report setting forth the quality and quantity of the oil disposed of and the price received therefor, and a statement of the expenses for the operation and management of the properties for the preceding month, and at such time, such recommendations as he may deem advisable to the Court respecting the management and operation of said property, provided that no recommendation made to the Court in

reference to the properties shall be acted upon by the Court without ten days' notice to both parties and an opportunity to be heard thereon; a copy of said report and recommendations shall be delivered to the solicitors of the parties herein.

IT IS FURTHER ORDERED AND PROVIDED that the said receiver shall, at all reasonable times, have ingress to and egress from said properties for the purpose of examining the same, and with such assistance as may be reasonable so to do. The said receiver shall also have full access, at all reasonable times, to the books of accounts, and records and logs of wells of the said Devil's Den Consolidated Oil Company with reference to said properties.

In the event the complainant herein desires to make an examination of the said property and wells in addition to the examination herein provided to be made by such receiver, it shall be permitted to make such examination at its own expense.

IT IS FURTHER ORDERED THAT a bond in the sum of Twenty-five Thousand Dollars (\$25,000) to be approved by this Court, shall be given by the receiver within fifteen days from the filing of this order; provided the solicitors for the complainant or for the defendant, or either of them, may at any time upon one day's notice to counsel for the opposite parties, apply to the Court for an increase in the amount of said bond. [109]

The moneys coming into the hands of said receiver shall be deposited in the Bank of California, The National Association, in the city of San Francisco, State of California, and shall draw interest at the

rate of at least three per cent per annum and shall be deposited in the name of said receiver and shall remain in said bank subject to the further order of this Court, both as to the amounts of money so deposited and the accumulation of interest thereon, provided that if said bank declines or refuses such rate of interest, then said moneys may be deposited in some other bank to be agreed upon by the parties or to be designated by the Court; provided that the said receiver, from the moneys received by him each month from the sale and disposition of oil and gas from said properties may deposit in a bank and in a non-interest-bearing account so much of said funds as may be necessary to pay the monthly operating and management expenses and the monthly current expenses of the receiver in the execution of this order, provided that said receiver shall not have on hand at any one time moneys in excess of Six Thousand Dollars (\$6,000) which are not deposited in The Bank of California, The National Association, in said interest-bearing account as aforesaid.

The amount of compensation to be paid to the receiver in this suit is to be determined hereafter, but in no event shall said sum, paid as compensation for services to the receiver in this action, together with such sums as may be paid said receiver for services as receiver of other oil and gas properties in suits brought in this court similar to this suit exceed the sum of Five Thousand Dollars per annum.

Done in open court this 20th day of December, 1916.

R. S. BEAN,  
District Judge. [110]

[Endorsed]: In Equity—No. A-37. In the District Court of the United States, Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company, Defendants. Order Appointing Receiver. Filed Dec. 20, 1916. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk. Joseph D. Redding, Morrison, Dunne & Brobeck, San Francisco, California. [111]

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*In the District Court of the United States, in and for the Southern District of California, Northern Division, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY, ASSOCIATED OIL COMPANY  
and STANDARD OIL COMPANY,

Defendants.

**Petition for Appeal by the Devil's Den Consolidated Oil Company.**

The above-named defendant, Devil's Den Consoli-



dated Oil Company, a corporation, feeling itself aggrieved by the order and decree made on the 20th day of December, 1916, in the above-entitled case, wherein the above-entitled court made its order appointing Howard M. Payne receiver of those certain properties and lands, to wit: The northeast quarter (NE.  $\frac{1}{4}$ ) of section thirty (30), township twenty-six (26) south, range twenty-one (21) east, M. D. B. & M., and situated in Kern County, California, involved in the above-entitled action, does hereby appeal from said order and decree to the United States Circuit Court of Appeals for the Ninth Circuit for the reasons, and upon the grounds, specified in the assignment of errors, which is filed herewith. Said defendant prays that this appeal may be allowed, and that a transcript of the record, proceedings, and papers upon which said order was made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit.

Dated January 15th, 1917.

JOSEPH D. REDDING,  
MORRISON, DUNNE & BROBECK,  
Solicitors for Defendant and Appellant.

OSCAR SUTRO,  
Of counsel. [112]

[Endorsed]: In Equity—A-37. In the District Court of the United States in and for the Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company. Petition for Appeal by the Devil's Den Consolidated Oil

Company. Service of the within Petition for Appeal is hereby acknowledged this 15th of Jan., 1917. E. J. Justice, Albert Schoonover, Frank Hall, Attorneys for Appellees. Filed Jan. 16, 1917. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk. Joseph D. Redding, Morrison, Dunne & Brobeck, Attorneys for Defendant and Appellant, Devil's Den Consolidated Oil Company, Crocker Bldg., San Francisco. [113]

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30073-17

*In the District Court of the United States, in and for the Southern District of California, Northern Division, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY, ASSOCIATED OIL COMPANY  
and STANDARD OIL COMPANY,

Defendants.

**Undertaking on Appeal.**

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, the United States Fidelity & Guaranty Company, a corporation, duly organized and existing and doing business under and by virtue of the laws of the State of Maryland is held and firmly bound unto the above-named respondent, the United States of America, in the sum of Five Hun-

dred Dollars (\$500.00), to be paid to said United States of America, for the payment of which, well and truly to be made, the undersigned binds itself, its successors and assigns firmly by these presents.

IN WITNESS WHEREOF, The said United States Fidelity & Guaranty Company has caused this obligation to be signed by its duly authorized Attorney-in-Fact, and its Corporate Seal to be hereunto affixed at San Francisco, California, this 15th day of January, A. D. 1917.

The *condition this* bond is such that whereas the above-named defendant, Devil's Den Consolidated Oil Company, a corporation, has prosecuted an appeal to the United States Circuit Court of Appeals, Ninth Circuit, to reverse the decree and order made [114] in the above-entitled action on the 20th day of December, 1916, appointing Howard M. Payne, receiver of certain properties of the said defendant by the District Court of the United States, for the Southern District of California, Northern Division.

NOW, THEREFORE, the condition of this obligation is such that if the above-named Devil's Den Consolidated Oil Company, a corporation, shall prosecute said appeal to effect and answer all damages and costs if they fail to make said appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

UNITED STATES FIDELITY & GUARANTY COMPANY.

[Seal]

By H. B. D. JOHNS,

Attorney-in-fact.

By W. S. ALEXANDER,

Attorney-in-fact.

Approved:

M. T. DOOLING,  
Judge.

[Endorsed]: In Equity—No. A-37. In the District Court of the United States, in and for the Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company, Defendants. Undertaking on Appeal. Filed Jan. 16, 1917. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk. Joseph D. Redding, Morrison, Dunne & Brobeck, Attorneys for Devil's Den Consolidated Oil Company, Defendant and Appellant, Crocker Building, San Francisco. [115]

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*In the District Court of the United States, in and for  
the Southern District of California, Northern  
Division, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, ASSOCIATED OIL COMPANY  
and STANDARD OIL COMPANY,

Defendants.

**Order Allowing Appeal.**

On motion of Joseph D. Redding, Esq., one of the solicitors for the defendant, Devil's Den Consoli-

dated Oil Company, a corporation, and on filing the petition of said defendant for an order allowing an appeal, together with an assignment of errors and a prayer for the reversal of the order appointing a receiver,—

IT IS HEREBY ORDERED that an appeal be, and is hereby, allowed to the United States Circuit Court of Appeals for the Ninth Circuit from the order given and made on the 20th day of December, 1916, and filed in the District Court of the United States for the Southern District of California, Northern Division, appointing Howard M. Payne as Receiver to take charge of the property of said defendant.

IT IS FURTHER ORDERED that a transcript of the record, proceedings, papers and exhibits upon which said order was made, duly authenticated and certified, be forthwith transmitted to said United States Circuit Court of Appeals for the Ninth Circuit.

IT IS FURTHER ORDERED that the bond on appeal be fixed at Five Hundred (\$500.00), to be approved by the Court. [116]

Dated January 15, 1917.

M. T. DOOLING,  
District Judge.

[Endorsed]: In Equity—A-37. In the District Court of the United States, in and for the Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company, Defend-

ants. Order Allowing Appeal. Service of the within order is hereby acknowledged this 15th day of January, 1917. E. J. Justice, Albert Schoonover, Frank Hall, Attorneys for Appellees. Filed Jan. 16, 1917. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk. Joseph D. Redding, Morrison, Dunne & Brobeck, Attorneys for Devil's Den Consolidated Oil Company, Defendant and Appellant, Crocker Building, San Francisco. [117]

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*In the District Court of the United States, in and for the Southern District of California, Northern Division, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY ASSOCIATED OIL COMPANY and STANDARD OIL COMPANY,

Defendants.

**Assignment of Errors on Appeal of the Devil's Den Consolidated Oil Company, a Corporation, Defendant, and Prayer for Reversal of Order Appointing Receiver.**

Now comes the Devil's Den Consolidated Oil Company, a corporation, and having prayed for an appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the order and decree of the above-entitled United States District Court made

on the 20th day of December, 1916, wherein and whereby one, Howard M. Payne, was appointed receiver of the following described property, to wit: Northeast quarter (NE.1/4) of section thirty (30), township twenty-six (26) south, range twenty-one (21) east, M. D. B. & M., and situated in Kern County, California, respectfully represent as grounds of appeal and as assignment of errors herein, and do hereby assign that the above-entitled United States District Court erred in the following particulars:

I.

That the United States District Court erred in making said order and in appointing said receiver.

II.

That said District Court erred in making said order in this that said court had not, nor had the Judge thereof, any jurisdiction to make said order appointing said receiver. [118]

III.

That said District Court erred in not granting the motion of defendant to dismiss the bill of complaint herein.

IV.

That said District Court erred in holding that said District Court had any jurisdiction to try any of the issues involved in the above-entitled action.

V.

That said District Court erred in refusing to grant the motion of defendant to dismiss the bill of complaint on the ground that the sole jurisdiction to determine the issues involved in said action was, at all

times since the commencement of this action, and still is, in the General Land Department of the United States.

## VI.

That said District Court erred in holding that the General Land Department of the United States to whom application had been made for patent to the lands involved in said action, did not have exclusive jurisdiction to determine all the issues involved in the above-entitled action.

## VII.

That said District Court erred in retaining jurisdiction of the subject matter of said suit and in appointing said Receiver for the reason that the General Land Department of the United States had exclusive jurisdiction to determine all issues in said suit.

## VIII.

That said District Court erred in not holding that the General Land Office before whom application for patent to the aforesaid lands were pending was the only tribunal competent and having power and jurisdiction to pass upon the issues involved in the above-entitled action. [119]

## IX.

That said District Court erred in holding that it had jurisdiction to determine the question of title to the lands involved in this action when it affirmatively appeared that patent had been applied for by defendants to the lands involved in this action, and there was pending an undetermined contest in the General Land Department of the United States, and



that testimony was being taken in said contest in said General Land Department of the United States, upon the question as to whether or not these defendants were entitled to a patent to said lands.

X.

That said District Court erred in refusing to grant the motion of said defendants to dismiss the bill of complaint on the ground that the Court had no jurisdiction to try the issues involved in said suit for the reason that the defendant, Devil's Den Consolidated Oil Company, long prior to the commencement of the above-entitled action did duly make and file its application for patent to said lands in the proper land office of the United States, as Visalia, California, wherein and whereby it did apply to the United States of America and to the General Land Department thereof in accordance with the laws of the United States of America and the rules and regulations of the Department of the Interior in reference thereto; upon which said application for patent, issue had been joined by the United States; and which said application for patent was, at the time of the making of said order appointing said receiver, to wit, on the 20th day of December, 1916, and, at the time of the hearing of said motion of said defendant to dismiss said bill of complaint and of the motion for a receiver, to wit, on the 21st, 22d, 23d, 24th, 25th, 28th and 29th days of August, 1916, still pending in the Land Department of the United States and undetermined, and the [120] evidence upon the hearings of said application for said patents was still in process of be-

ing taken in the General Land Department of the United States.

#### XI.

That said District Court erred in making said order and decree and appointing said Receiver in that long prior to the commencement of said action the defendant, the Devil's Den Consolidated Oil Company, had bought the land involved in said action from the plaintiff, had paid the full purchase price therefor and had received a receipt from the plaintiff for said purchase price.

#### XII.

That said District Court erred in refusing to grant the motion of the said defendant to dismiss said action, and furthermore erred in making said order appointing a receiver in this that the said Court never has had, and has not at the present time, any jurisdiction of the subject matter in this action.

#### XIII.

That said District Court erred in holding and in construing the above-entitled action as one brought for ancillary relief.

#### XIV.

That said District Court erred in holding that upon the complaint filed in the above-entitled action, it had jurisdiction to grant relief by the appointment of a receiver as ancillary to the proceedings in the General Land Department of the United States.

#### XV.

That said District Court erred in not holding that it had no jurisdiction to grant the ultimate relief asked for in the bill of complaint, and therefore

that it had no jurisdiction to grant ancillary relief by the appointment of a receiver. [121]

XVI.

That said District Court erred in appointing a receiver upon the bill of complaint as filed and regarding the action as ancillary to the proceedings in the Land Department, whereas this action, as a matter of fact, was and is in opposition to and in disregard of the proceedings in the Land Department.

XVII.

That said District Court erred in making said order appointing said receiver in this that said Court abused its discretion and committed an abuse of discretion in making said order.

XVIII.

That said District Court erred in making said order in that the complaint of plaintiff in said action did not show facts justifying the appointment of a receiver.

XIX.

That said District Court erred in directing the receiver to take charge of the oil and gas produced from said lands and to dispose of the same, and in directing the defendant to pay over to the receiver the proceeds of the sale of oil or gas produced from said lands.

XX.

That said District Court erred in holding that the complainant was not amply protected as to all of its rights in the General Land Department of the United States by reason of the applications for patents to said land involved herein on the part of the defend-

ant, Devil's Den Consolidated Oil Company herein, and the application on the part of defendant for leases under the terms and provisions of the Act of Congress of August 25th, 1914, entitled "An Act to Amend an Act Entitled 'An Act to Protect the Locators in Good Faith of Oil and Gas Land Who Shall Have Effected an Actual Discovery of Oil or Gas on the Public Lands of the United States, or their Successors in Interest,' [122] approved March 2d, 1911."

### XXI.

That said District Court erred in making said decree and order appointing a receiver in said action in that the complaint contains no allegation that the properties in question have been, or are being mismanaged, nor was any evidence introduced, nor did the Court hold that the said properties have not been, or are not being properly and economically managed, and furthermore, the complaint in this action does not allege, nor did the evidence offered at the hearing of said application, show, or tend to show that any of the defendants are insolvent, nor was any evidence offered or introduced to show, nor did the Court hold that in the management and operation of said properties said defendants conducted such management and operation in any manner different from the management and operation thereof as the same could, would or should be conducted by any receiver who might be appointed in the premises.

### XXII.

That said District Court erred in making said order and decree in that said order is against the

evidence presented at the hearing of said motion for a receiver.

XXIII.

That said District Court erred in making said order and decree appointing said receiver in that said order and decree is against law.

WHEREFORE the defendant, Devil's Den Consolidated Oil Company, a corporation, prays that said order appointing said receiver herein may be directed to be expunged from the records of said District Court for want of jurisdiction in said court to give and make said order appointing a receiver, and that the order appointing said receiver be corrected and reversed and the receiver discharged, and all moneys and properties received [123] by said receiver from these defendants be returned to them; in order that the foregoing assignment of errors may be and appear of record the defendants above named present the same to this Court and pray that such disposition may be made thereof as by the law and statutes of the United States in such case made and provided.

Dated January 15th, 1917.

JOSEPH D. REDDING,  
MORRISON, DUNNE & BROBECK,  
Solicitors for Defendant, Devil's Den Consolidated  
Oil Company.

OSCAR SUTRO,  
Of Counsel.

[Endorsed]: In Equity—No. A-37. In the District Court of the United States, in and for the Southern District of California, Northern Division,

Ninth Circuit. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company, Defendants. Assignment of Errors on Appeal. Service of the within Assignment of Errors is hereby acknowledged this 15th day of January, 1917. E. J. Justice, Albert Schoonover, Frank Hall, Attys. for Appellees. Filed Jan. 16, 1917. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk. Joseph D. Redding, Morrison, Dunne & Brobeck, Attorneys for Defendant and Appellant, Devil's Den Consolidated Oil Company, Crocker Building, San Francisco. [124]

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*In the District Court of the United States, for the Southern District of California, Northern Division, Ninth, Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY, ASSOCIATED OIL COMPANY  
and STANDARD OIL COMPANY,

Defendants.

**Stipulation Re Allowance of Appeal, etc.**

It is hereby stipulated between the parties hereto that the petition for appeal and assignment of errors in the above-entitled action may be presented for allowance by the defendant, Devil's Den Consoli-

dated Oil Company, a corporation, to the Honorable Maurice T. Dooling, regularly sitting by special assignment in the above-entitled court in special session held in the city and county of San Francisco, State of California, and that said Honorable Maurice T. Dooling may sign and allow said appeal, while sitting as aforesaid by special assignment in said special session in said city and county of San Francisco, State of California, and may sign the order allowing the appeal and the citation on appeal and approve the bond furnished by said defendants on appeal, and

It is further stipulated that no objection or advantage shall be taken of the fact that the Court is holding special session in the city and county of San Francisco, State of California, and that the said appeal and the allowance thereof are presented and allowed by a Judge of said Court, other than the Judge who made the order from which this appeal is taken. [125]

Dated January 15th, 1917.

JOSEPH D. REDDING,  
MORRISON, DUNNE & BROBECK,

Solicitors for the Devil's Den Consolidated Oil Company, Defendant and Appellant.

E. J. JUSTICE,  
ALBERT SCHOONOVER,  
FRANK HALL,

Solicitors for Complainant and Respondent.

OSCAR SUTRO,  
Of Counsel.

[Endorsed]: In Equity—No. A-37. In the District Court of the United States, for the Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company, Associated Oil Company and Standard Oil Company, Defendants. Stipulation on Appeal. Filed Jan. 16, 1917. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk. Joseph D. Redding, Morrison, Dunne & Brobeck, Attorneys for Defendant and Appellant, Devil's Den Consolidated Oil Company, Crocker Building, San Francisco. [126]

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*In the District Court of the United States, for the Southern District of California, Northern Division, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff and Appellee,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY et al.,

Defendants and Appellants.

**Stipulation and Order Enlarging Time to and Including March 18, 1917, for Filing Statement of Evidence.**

IT IS HEREBY STIPULATED by and between the parties hereto, by their respective solicitors, in the above-entitled cause, that the defendants and



appellants, Devil's Den Consolidated Oil Company, a corporation, may have up to and including the 18th day of March, 1917, within which to file for approval its statement of the evidence to be included in the record on appeal, as provided for in Equity Rule No. 75, and that the plaintiff and appellee may have ten days from and after receiving notice of the filing of said statement of evidence with the clerk of the above-entitled court within which to file objections and proposed amendments thereto.

Dated February 13, 1917.

ALBERT SCHOONOVER,  
United States Attorney,

E. J. JUSTICE,  
Special Assistant to the Attorney General.

A. E. CAMPBELL,  
Special Assistant to the Attorney General.

FRANK HALL,  
Special Assistant to the Attorney General.

Solicitors for Plaintiff and Appellee.

JOSEPH D. REDDING,

MORRISON, DUNNE & BROBECK,

Solicitors for Defendants and Appellants.

It is ordered.

M. T. DOOLING,  
District Judge. [127]

[Endorsed]: Original. In Equity—No. A-37. In the District Court of the United States, for the Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company et al.,

Defendants. Stipulation Enlarging Time for Filing Statement of Evidence. Filed Feb. 16, 1917. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Joseph D. Redding and Morrison, Dunne & Brobeck, Crocker Building, San Francisco, Solicitors for Defendants. [128]

*In the District Court of the United States, for the Southern District of California, Northern Division, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff and Appellee,

vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY et al.,

Defendants and Appellants.

**Stipulation and Order Enlarging Time to and Including May 18, 1917, for Filing Statement of Evidence.**

IT IS HEREBY STIPULATED by and between the parties hereto, by their respective solicitors, in the above-entitled cause, that the defendants and appellants, Devil's Den Consolidated Oil Company, a corporation, may have up to and including the 18th day of May, 1917, within which to file for approval its statement of the evidence to be included in the record on appeal, as provided for in Equity Rule No. 75, and that the plaintiff and appellee may have

ten days from and after receiving notice of the filing of said statement of evidence with the clerk of the above-entitled court within which to file objections and proposed amendments thereto.

Dated March 12, 1917.

ALBERT SCHOONOVER,  
United States Attorney,  
E. J. JUSTICE,  
Special Assistant to the Attorney General,  
A. E. CAMPBELL,  
Special Assistant to the Attorney General,  
FRANK HALL,  
Special Assistant to the Attorney General,  
Solicitors for Plaintiff and Appellee.  
JOSEPH D. REDDING,  
MORRISON, DUNNE & BROBECK,  
Solicitors for Defendants and Appellants.

It is ordered.

M. T. DOOLING,  
District Judge. [129]

[Endorsed]: Original. In Equity—No. A-37. In the District Court of the United States, for the Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company et al., Defendants. Stipulation and Order Enlarging Time for Filing Statement of Evidence. Filed Mar. 13, 1917. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Joseph D. Redding, and Morrison, Dunne & Brobeck, Crocker Building, San Francisco, Solicitors for Defendants. [130]

*In the District Court of the United States, for the  
Southern District of California, Northern Divi-  
sion, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,  
Plaintiff and Appellee,  
vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, ASSOCIATED OIL COMPANY,  
and STANDARD OIL COMPANY,  
Defendants and Appellants.

**Stipulation and Order Enlarging Time to and  
Including July 18, 1917, for Filing Statement of  
Evidence.**

IT IS HEREBY STIPULATED by and between the parties hereto, by their respective solicitors, in the above-entitled cause, that the defendants and appellants, Devil's Den Consolidated Oil Company, a corporation, may have up to and including the 18th day of July, 1917, within which to file for approval its statement of the evidence to be included in the record on appeal, as provided for in Equity Rule No. 75, and that the plaintiff and appellee may have ten days from and after receiving notice of the filing of said statement of evidence with the Clerk of the above-entitled court within which to file objections and proposed amendments thereto.

Dated May 14th, 1917.

ALBERT SCHOONOVER,  
United States Attorney,  
E. J. JUSTICE,  
Special Assistant to the Attorney General,  
A. E. CAMPBELL,  
Special Assistant to the Attorney General,  
FRANK HALL,  
Special Assistant to the Attorney General,  
Solicitors for Plaintiff and Appellee.  
JOSEPH D. REDDING,  
MORRISON, DUNNE & BROBECK,  
Solicitors for Defendants and Appellants.

It is ordered.

M. T. DOOLING,  
District Judge. [131]

[Endorsed]: In Equity—No. A-37. In the District Court of the United States, for the Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff and Appellee, vs. Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company, Defendants and Appellants. Stipulation Enlarging Time for Filing Statement of Evidence. Filed May 15, 1917. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk. Joseph D. Redding, Morrison, Dunne and Brobeck, Attorneys for Defendant, Devil's Den Consolidated Oil Company, Crocker Bldg., San Francisco. [132]

*In the District Court of the United States, for the Southern District of California, Northern Division, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,  
Plaintiff and Appellee,  
vs.

DEVIL'S DEN CONSOLIDATED OIL COMPANY,  
ASSOCIATED OIL COMPANY,  
and STANDARD OIL COMPANY,  
Defendants and Appellants.

**Stipulation and Order Enlarging Time to and Including September 18, 1917, for Filing Statement of Evidence.**

IT IS HEREBY STIPULATED by and between the parties hereto by their respective solicitors in the above-entitled cause, that the defendants and appellants, Devil's Den Consolidated Oil Company, a corporation, may have up to and including the 18th day of September, 1917, within which to file for approval its statement of the evidence to be included in the record on appeal, as provided for in Equity Rule No. 75, and that the plaintiff and appellee may have ten days from and after receiving notice of the filing of said statement of evidence with the clerk of the above-entitled court within which to file objections and proposed amendments thereto.

Dated July 6, 1917.

ALBERT SCHOONOVER,  
United States Attorney.

E. J. JUSTICE,

Special Assistant to the Attorney General.

FRANK HALL,

Special Assistant to the Attorney General.

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Special Assistant to the Attorney General.

JOSEPH D. REDDING,

MORRISON, DUNNE & BROBECK,

Solicitors for Defendants and Appellants.

It is ordered.

WM. W. MORROW,

District Judge. [133]

[Endorsed]: In Equity—No. A-37. In the District Court of the United States, for the Southern District of California, Northern Division, Ninth Circuit. United States of America, Ptf. and Appellee, vs. Devil's Den Consolidated Oil Company, Associated Oil Company, and Standard Oil Company, Dfts. and Appellants. Stipulation Enlarging Time for Filing Statement of Evidence. Filed Jul. 14, 1917. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk. Joseph D. Redding, Morrison, Dunne & Brobeck, Crocker Building, San Francisco, Cal., Solicitors for Defendants and Appellants. [134]

*In the District Court of the United States, for the  
Southern District of California, Northern Divi-  
sion, Ninth Circuit.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff and Appellee,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY,

Defendant and Appellant.

**Stipulation and Order Enlarging Time to and  
Including November 18, 1917, for Filing State-  
ment of Evidence.**

IT IS HEREBY STIPULATED by and between the parties hereto by their respective solicitors, in the above-entitled cause, that the defendant and appellant, Devil's Den Consolidated Oil Company, a corporation, may have up to and including the 18th day of November, 1917, within which to file for approval its statement of the evidence to be included in the record on appeal, as provided for in Equity Rule No. 75, and that the plaintiff and appellee may have ten days from and after receiving notice of the filing of said statement with the clerk of the above-entitled court within which to file objections and proposes amendments thereto.



Dated September 10, 1917.

ALBERT SCHOONOVER,  
United States Attorney,  
HENRY F. MAY,  
Special Assistant to the Attorney General,  
FRANK HALL,  
Special Assistant to the Attorney General,  
\_\_\_\_\_,  
Special Assistant to the Attorney General,  
Solicitors for Plaintiff and Appellee.  
JOSEPH D. REDDING,  
MORRISON, DUNNE & BROBECK,  
Solicitors for Defendant and Appellant.

It is ordered.

WM. H. HUNT,  
Judge. [135]

[Endorsed]: In Equity—No. A-37. In the District Court of the United States, for the Southern District of California, Northern Division, Ninth Circuit. United States of America, Plaintiff, *vs.* Devil's Den Consolidated Oil Company, Defendant. Stipulation Enlarging Time for Filing Statement of Evidence. Filed Sep. 14, 1917. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Joseph D. Redding and Morrison, Dunne & Brobeck, Crocker Building, San Francisco, Solicitors for Defendants. [136]

*In the District Court of the United States, for the  
Southern District of California, Northern Divi-  
sion.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, ASSOCIATED OIL COMPANY,  
and STANDARD OIL COMPANY,  
Defendants.

IN EQUITY—No. A-52.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

LOST HILLS MINING COMPANY, UNIVER-  
SAL OIL COMPANY and ASSOCIATED  
OIL COMPANY,  
Defendants.

IN EQUITY—No. A-57.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

LOST HILLS MINING COMPANY and UNI-  
VERSAL OIL COMPANY,  
Defendants.

**Stipulation for but One Transcript of the Record and Statement of Evidence on Appeal, as to the Use Thereof on Appeal, and for the Time of Filing of Statement of Evidence.**

IT IS HEREBY STIPULATED and agreed by and between the parties in the above-entitled causes, by their respective counsel, [137] that in perfecting the record for appeals of the above-entitled causes, to the United States Circuit Court of Appeals, only one record of the statement of the evidence to be incorporated in the record on appeal, shall be required, to wit: the statement of the evidence in case No. A-52; such record to include such of the clerk's records in each of said within causes as desired by either of the parties; and one statement of the evidence introduced upon the hearing of the application for a receiver in said causes, the same having been at that time consolidated for said hearing, and such record when so approved may be used by the defendants, or either of them, or by the plaintiff as the record on appeal in either or all of such causes, when and where applicable and relevant.

IT IS FURTHER STIPULATED by and between the parties in the above-entitled causes that the defendants therein may have until the 30th day of October, 1917, within which to file for approval its statement of the evidence to be included in the

record on appeal as provided for in equity rule No. 75.

JOSEPH D. REDDING,  
MORRISON, DUNNE & BROBECK,  
Solicitors for Defendants and Appellants.

ROBERT O'CONNOR,  
United States Attorney,

HENRY F. MAY,  
FRANK HALL,

Special Assistants to the Attorney General,  
Solicitors for the Plaintiff and Appellee. [138]

[Endorsed]: In the District Court of the United States for the Southern District of California, Northern Division. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Co. et al., Defendants. No. A-37. United States of America, Plaintiff, vs. Lost Hills Mining Company et al., Defendants. No. A-52. United States of America, Plaintiff, vs. Lost Hills Mining Company et al., Defendants. No. A-57. Stipulation for but One Transcript of the Record and Statement of Evidence on Appeal, as to the Use Thereof on Appeal, and for the Time of Filing of Statement of Evidence. Filed Oct. 18, 1917. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Joseph D. Redding and Morrison, Dunne & Brobeck, Crocker Building, San Francisco, Cal., Solicitors for Defendants. [139]

*In the District Court of the United States, for the  
Southern District of California, Northern Divi-  
sion, Ninth Circuit.*

Honorable ROBERT S. BEAN, Judge Presiding.

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,  
Complainant,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY et al.,

Defendants.

IN EQUITY—No. A-52.

UNITED STATES OF AMERICA,  
Complainant,

vs.

LOST HILLS MINING COMPANY, UNIVER-  
SAL OIL COMPANY, and ASSOCIATED  
OIL COMPANY,

Defendants.

IN EQUITY—No. A-57.

UNITED STATES OF AMERICA,  
Complainant,

vs.

LOST HILLS MINING COMPANY and UNI-  
VERSAL OIL COMPANY,

Defendants.

**Stipulation for Approval of Statement of Evidence.**

[140]

IT IS STIPULATED by and between the parties to this cause, through their respective solicitors, that the foregoing statement of evidence may be approved by the Court or Judge, as the statement of evidence to be used for the purposes of defendants' appeal to the Circuit Court of Appeals of the United States for the Ninth Circuit under Rule 75 of the "Rules of Practice for the Courts of Equity of the United States," and the complainant (United States of America) hereby expressly waives its right to have the statement of the evidence first lodged in the clerk's office for its examination, and further waives its right to the ten days' notice of the time and place when and where the defendants will ask the Court or Judge to approve the same, as provided in and by said Rule 75.

ROBERT O'CONNOR,

United States District Attorney,

HENRY F. MAY,

Special Assistant to the Attorney General.

FRANK HALL,

Special Assistant to the Attorney General,

Solicitors for Complainant.

JOSEPH D. REDDING,

MORRISON, DUNNE &amp; BROBECK,

Solicitors for Defendants. [141]

[Endorsed]: A-37—Eq. In the District Court of the United States, for the Southern District of California, Northern Division, Ninth Circuit. United

States of America, vs. Devil's Den Consolidated Oil Company et al. In Equity—No. 37. United States of America vs. Lost Hills Mining Company et al. In Equity—Nos. A-52, A-57. Stipulation for Approval of Statement of Evidence. Filed Oct. 1, 1917. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk. Albert Schoonover, U. S. Dist. Atty., Frank Hall, Henry F. May, Special Assistants to the Attorney General, Solicitors for Complainant. Joseph D. Redding, Morrison, Dunne & Brobeck, Solicitors for Defendants. [142]

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*In the District Court of the United States for the Southern District of California, Northern Division.*

A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL CO., ASSOCIATED OIL COMPANY, and STANDARD OIL COMPANY, Corporations,

Defendants.

**Notice of Election by Defendant Devil's Den Consolidated Oil Company as to Printing of Record.**

The Devil's Den Consolidated Oil Company, a corporation, being the appellant in the above-entitled cause from an order of said Court to the United States Circuit Court of Appeals for the Ninth Circuit,

hereby gives notice that they elect to take and file in the said Appellate Court, to be printed under the supervision of its clerk, under its rules, a transcript of such portions of the record as may be duly settled under Rule 75 of the "Rules of Practice for the Courts of Equity of the United States," duly authenticated, and also in accordance with the stipulation heretofore filed in this cause employing the record of the transcript of proceedings in case A-52 as provided in said stipulation.

Dated October 16, 1917.

JOSEPH D. REDDING,

MORRISON, DUNNE & BROBECK,

Solicitors for Defendants and Appellants. [143]

[Endorsed]: A-37. In the District Court of the United States, for the Southern District of California, Northern Division. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Co. et al., Defendants. Notice of Election by Defendant as to Printing of Record. Filed Oct. 18, 1917. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Joseph D. Redding, and Morrison, Dunne and Brobeck, Crocker Building, San Francisco, Cal., Solicitors for Defendants. [144]



*In the District Court of the United States, for the  
Southern District of California, Northern Divi-  
sion.*

IN EQUITY—No. A-37.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, ASSOCIATED OIL COMPANY  
and STANDARD OIL COMPANY,

Defendants.

**Amended Praecipe for Transcript on Appeal by  
Defendant Devil's Den Consolidated Oil Com-  
pany, a Corporation.**

To William M. Van Dyke, Clerk of the District  
Court of the United States, for the Southern  
District of California, Northern Division:

Please prepare and duly authenticate for the ap-  
peal of the defendant, Devil's Den Consolidated Oil  
Company, a corporation, to the United States Circuit  
Court of Appeals for the Ninth Circuit, from the  
order appointing a receiver in the above-entitled suit  
entered on December 21, 1916, a transcript incor-  
porating the following portions of the record therein  
and none other:

1. Bill of Complaint.
2. Answer of Defendant Devil's Den Consolidated  
Oil Company to the Bill of Complaint.
3. Amended Answer of Defendant Devil's Den

Consolidated Oil Company to the Bill of Complaint.

4. Answer of the Devil's Den Consolidated Oil Company and Associated Oil Company to the Bill of Complaint.
5. Notice of Motion to have the Jurisdictional Defense of the Defendants Separately Heard and Disposed of.
6. Notice of Motion for Restraining Order and Appointment of Receiver. [145]
7. Hearing Orders Entered July 28, 1916.
8. Three Motions Filed August 15, 1916, and Orders Thereon.
9. Orders on Hearing August 16, August 17, August 21, August 22, August 23, August 24, August 25, August 28, August 29, 1916.
10. Hearing Order of October 4, 1916.
11. Order December 21, 1916, Appointing Howard M. Payne, Receiver.
12. The Petition of Devil's Den Consolidated Oil Company for Its Said Appeal.
13. Undertaking on Appeal.
14. Order Allowing Appeal.
15. Assignment of Errors for Such Appeal.
16. The Orders of the Court or Judge Allowing Such Appeal.
17. The Citation Issued on such Appeal Showing Service Thereof.
18. Each and All of the Several Stipulations Entered into Between Counsel Extending the Return Day of the Citation; Stipulations Extending the Time in Which the State-

ment of Evidence to be Incorporated in the Record on Appeal Shall be Filed; Stipulation With Reference to Consolidating the Record and Printing of One Transcript Thereof in the Above-entitled Case, and also in A-52 and A-57; All Stipulations With Reference to Perfecting the Appeal in the Above-entitled Case.

19. Stipulation Entered into in the Above-entitled cause, and also in A-52 and A-57 for the Approval of Statement of Evidence.
20. Notice of Election by Defendants and Appellants as to Printing Record.
21. This Amended Praeipe.

Dated Los Angeles, California, November 7th, 1917.

JOSEPH D. REDDING,  
MORRISON, DUNNE & BROBECK,

Solicitors for Defendants and Appellants. [146]

[Endorsed]: In Equity—A-37. In the District Court of the United States for the Southern District of California, Northern Division. United States of America, Plaintiff, vs. Devil's Den Consolidated Oil Company, Associated Oil Company and Standard Oil Company, Defendants. Amended Praeipe for Transcript on Appeal.

Due service upon plaintiff with a copy of the foregoing Amended Praeipe at San Francisco, California, on this 7th day of November, 1917, is hereby acknowledged, and the ten days' notice provided for

in Equity Rule No. 75 is hereby waived.

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United States District Attorney.

FRANK HALL,

Special Assistant to the Attorney General, Solicitor  
for the Plaintiff.

Filed Nov. 8, 1917. Wm. M. Van Dyke, Clerk.  
By Chas. N. Williams, Deputy Clerk. Joseph D.  
Redding, and Morrison, Dunne & Brobeck, Crocker  
Building, San Francisco, Cal., Solicitors for Defend-  
ants. [147]

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*In the District Court of the United States of  
America, in and for the Southern District of  
California, Northern Division.*

IN EQUITY—No. A-37.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, a Corporation, ASSOCIATED OIL  
COMPANY, a Corporation, and STAND-  
ARD OIL COMPANY, a Corporation,  
Defendants.

**Certificate of Clerk U. S. District Court to  
Transcript of Record.**

I, Wm. M. Van Dyke, Clerk of the District Court  
of the United States of America, in and for the  
Southern District of California, do hereby certify

the foregoing one hundred and forty-seven typewritten pages, numbered from 1 to 147, inclusive, and comprised in one volume, to be a full, true and correct copy of the record, proceedings and papers upon which the order and decree made on the 20th day of December, 1916, in the above-entitled case, wherein the above-entitled court made its order appointing Howard M. Payne, Receiver, and that the same, together, constitute the record in said cause as specified in the said Praeceptum filed in my office on behalf of the appellant, Devil's Den Consolidated Oil Company, a corporation, by its solicitors of record.

I do further certify that the cost of the foregoing record is \$49.40, the amount whereof has been paid me by Devil's Den Consolidated Oil Company, a corporation, the appellant herein. [148]

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of the District Court of the United States of America, in and for the Southern District of California, this 11th day of December, in the year of our Lord one thousand nine hundred and seventeen and of our Independence the one hundred and forty-second.

[Seal] WM. M. VAN DYKE,  
Clerk of the District Court of the United States of  
America, in and for the Southern District of  
California. [149]

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[Endorsed]: No. 3094. United States Circuit Court of Appeals for the Ninth Circuit. Devil's Den Consolidated Oil Company, a Corporation, Appel-

lant, vs. The United States of America, Appellee. Transcript of the Record. Upon Appeal from the United States District Court for the Southern District of California, Northern Division.

Filed December 17, 1917.

F. D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Paul P. O'Brien,  
Deputy Clerk.

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*In the United States Circuit Court of Appeals, Ninth  
Judicial Circuit.*

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, et al.,

Defendants and Appellants,

vs.

UNITED STATES OF AMERICA,

Plaintiff and Appellee.

**Stipulation and Order Enlarging Time to and  
Including March 18, 1917, to Return Citation.**

IT IS HEREBY STIPULATED by and between the parties hereto by their respective solicitors, in the above-entitled cause, which case is In Equity No. A-37, in the District Court of the United States for the Southern District of California, Northern Division, that the defendant and appellant, Devil's Den Consolidated Oil Company, may have up to and including the 18th day of March, 1917, within which to file its transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit, and that

the return day of the citation on appeal to the United States Circuit Court of Appeals for the Ninth Circuit may be enlarged and extended up to and included said 18th day of March, 1917.

Dated February 13, 1917.

ALBERT SCHOONOVER,  
United States Attorney,  
E. J. JUSTICE,  
Special Assistant to the Attorney General,  
A. E. CAMPBELL,  
Special Assistant to the Attorney General,  
FRANK HALL,  
Special Assistant to the Attorney General,  
Solicitors for Plaintiff and Appellee.  
JOSEPH D. REDDING,  
MORRISON, DUNNE & BROBECK,  
Solicitors for Defendant and Appellant.

**Order.**

This cause coming on to be heard upon the application of the Devil's Den Consolidated Oil Company, defendant and appellant, for an enlargement of the return of the citation on appeal to the United States Circuit Court of Appeals for the Ninth Circuit, and it appearing that a stipulation by and between the parties has been filed herein providing that the return day on such citation may be extended up to and including the 18th day of March, 1917;

IT IS HEREBY ORDERED that the return day of the citation on appeal to the United States Circuit Court of Appeals for the Ninth Circuit be and the

same hereby is enlarged and extended up to and including the 18th day of March, 1917.

Dated February 15, 1917.

WM. W. MORROW,  
Circuit Judge.

[Endorsed]: Original. In the United States Circuit Court of Appeals, Ninth Judicial District. Devil's Den Consolidated Oil Company, et al., Appellants, vs. United States of America, Appellee. Stipulation Enlarging Time to Return Citation, and Order. Filed Feb. 15, 1917. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals, Ninth  
Judicial Circuit.*

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, et al.,

Defendants and Appellants,

vs.

UNITED STATES OF AMERICA,

Plaintiff and Appellee.

**Stipulation and Order Enlarging Time to and  
Including May 18, 1917, to Return Citation.**

IT IS HEREBY STIPULATED by and between the parties hereto by their respective solicitors, in the above-entitled cause, which case is In Equity No. A-37, in the District Court of the United States for the Southern District of California, Northern Division, that the defendant and appellant, Devil's Den



Consolidated Oil Company, may have up to and including the 18th day of May, 1917, within which to file its transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit, and that the return day of the citation on appeal to the United States Circuit Court of Appeals for the Ninth Circuit may be enlarged and extended up to and including said 18th day of May, 1917.

Dated March 12, 1917.

ALBERT SCHOONOVER,  
United States Attorney,  
E. J. JUSTICE,

Special Assistant to the Attorney General,  
A. E. CAMPBELL,

Special Assistant to the Attorney General,  
FRANK HALL,

Special Assistant to the Attorney General,  
Solicitors for Plaintiff and Appellee.

JOSEPH D. REDDING,

MORRISON, DUNNE & BROBECK,

Solicitors for Defendant and Appellant.

### **Order.**

This cause coming on to be heard on application of the Devil's Den Consolidated Oil Company, defendant and appellant, for an enlargement of the return of citation on appeal to the United States Circuit Court of Appeals for the Ninth Circuit, and for an extension of time within which to file their transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit, and it appearing that a stipulation by and between the parties has been filed

herein providing that the return day on such citation may be extended up to and including the 18th day of May, 1917, and that the appellant may have up to and including said 18th day of May, 1917, within which to file its transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit;

IT IS HEREBY ORDERED that the return day of the citation on appeal to the United States Circuit Court of Appeals for the Ninth Circuit be and the same is hereby enlarged and extended up to and including the 18th day of May, 1917, and the said appellant is hereby given up to and including the said 18th day of May, 1917, within which to file its transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit.

Dated March 12, 1917.

WM. W. MORROW,  
Circuit Judge.

[Endorsed]: Original. In the United States Circuit Court of Appeals, Ninth Judicial Circuit. Devil's Den Consolidated Oil Company, et al., Appellants, vs. United States of America, Appellee. Stipulation Enlarging Time to Return Citation. Order. Filed Mar. 12, 1917. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals, Ninth  
Judicial Circuit.*

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, et al.,

Defendants and Appellants,

vs.

UNITED STATES OF AMERICA,

Plaintiff and Appellee.

**Stipulation and Order Enlarging Time to and  
Including July 18, 1917, to Return Citation.**

IT IS HEREBY STIPULATED by and between the parties hereto by their respective solicitors, in the above-entitled cause, which case is In Equity No. A-37, in the District Court of the United States for the Southern District of California, Northern Division, that the defendant and appellant, Devil's Den Consolidated Oil Company, may have up to and including the 18th day of July, 1917, within which to file its transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit, and that the return day of the citation on appeal to the United States Circuit Court of Appeals for the Ninth Circuit may be enlarged and extended up to and including said 18th day of July, 1917.

Dated May 14th, 1917.

ALBERT SCHOONOVER,  
United States Attorney,  
E. J. JUSTICE,  
Special Assistant to the Attorney General,  
A. E. CAMPBELL,  
Special Assistant to the Attorney General,  
FRANK HALL,  
Special Assistant to the Attorney General,  
Solicitors for Plaintiff and Appellee.  
JOSEPH D. REDDING,  
MORRISON, DUNNE & BROBECK,  
Solicitors for Defendant and Appellant.

**Order.**

This cause coming on to be heard on application of the Devil's Den Consolidated Oil Company, defendant and appellant, for an enlargement of the return of citation on appeal to the United States Circuit Court of Appeals for the Ninth Circuit, and for an extension of time within which to file their transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit, and it appearing that a stipulation by and between the parties has been filed herein providing that the return day on such citation may be extended up to and including the 18th day of July, 1917, and that the appellant may have up to and including said 18th day of July, 1917, within which to file its transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit;

IT IS HEREBY ORDERED that the return day of the citation on appeal to the United States Circuit

Court of Appeals for the Ninth Circuit be and the same is hereby enlarged and extended up to and including the 18th day of May, 1917, and the said appellant is hereby given up to and including the said 18th day of July, 1917, within which to file its transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit.

Dated May 14, 1917.

WM. W. MORROW,  
Circuit Judge.

[Endorsed]: In the United States Circuit Court of Appeals, Ninth Judicial Circuit. Devil's Den Consolidated Oil Company, et al., Appellants, vs. United States of America, Appellee. Stipulation Enlarging Time to Return Citation and Order. Filed May 17, 1917. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals, Ninth  
Judicial Circuit.*

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, et al.,

Defendants and Appellants,

vs.

UNITED STATES OF AMERICA,

Plaintiff and Appellee.

**Stipulation and Order Enlarging Time to and  
Including September 18, 1917, to Return Citation.**

IT IS HEREBY STIPULATED by and between  
the parties hereto by their respective solicitors, in

the above-entitled cause, which case is In Equity No. A-37, in the District Court of the United States for the Southern District of California, Northern Division, that the defendant and appellant, Devil's Den Consolidated Oil Company, may have up to and including the 18th day of September, 1917, within which to file its transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit, and that the return day of the citation on appeal to the United States Circuit Court of Appeals for the Ninth Circuit may be enlarged and extended up to and including said 18th day of September, 1917.

Dated July 6, 1917.

ALBERT SCHOONOVER,  
United States Attorney,

E. J. JUSTICE,

Special Assistant to the Attorney General,

FRANK HALL,

Special Assistant to the Attorney General,

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Special Assistant to the Attorney General,

Solicitors for Plaintiff and Appellee.

JOSEPH D. REDDING,

MORRISON, DUNNE & BROBECK,

Solicitors for Defendant and Appellant.

**Order.**

This cause coming on to be heard on application of the Devil's Den Consolidated Oil Company, defendant and appellant, for an enlargement of the return of citation on appeal to the United States Circuit Court of Appeals for the Ninth Circuit, and for an extension of time within which to file their transcript

on appeal in the United States Circuit Court of Appeals for the Ninth Circuit, and it appearing that a stipulation by and between the parties has been filed herein providing that the return day on such citation may be extended up to and including the 18th day of September, 1917, and that the appellant may have up to and including said 18th day of September, 1917, within which to file its transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit;

IT IS HEREBY ORDERED that the return day of the citation on appeal to the United States Circuit Court of Appeals for the Ninth Circuit be and the same is hereby enlarged and extended up to and including the 18th day of September, 1917, and the said appellant is hereby given up to and including the said 18th day of September, 1917, within which to file its transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit.

Dated July 13, 1917.

WM. W. MORROW,  
Circuit Judge.

[Endorsed]: In Equity—No. ——. In the United States Circuit Court of Appeals, Ninth Judicial Circuit. Devil's Den Consolidated Oil Company et al., Dfts. and Appellants, vs. United States of America, Ptf. and Appellee. Stipulation Enlarging Time to Return Citation. Order. Filed Jul. 13, 1917. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals, Ninth  
Judicial Circuit.*

DEVIL'S DEN CONSOLIDATED OIL COM-  
PANY, et al.,

Defendants and Appellants,

vs.

UNITED STATES OF AMERICA,

Plaintiff and Appellee.

**Stipulation and Order Enlarging Time to and  
Including November 18, 1917, to Return Cita-  
tion.**

IT IS HEREBY STIPULATED by and between the parties hereto by their respective solicitors, in the above-entitled cause, which case is In Equity No. A-37, in the District Court of the United States for the Southern District of California, Northern Division, that the defendant and appellant, Devil's Den Consolidated Oil Company, may have up to and including the 18th day of November, 1917, within which to file its transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit, and that the return day of the citation on appeal to the United States Circuit Court of Appeals for the Ninth Circuit may be enlarged and extended up to and including said 18th day of November, 1917.



Dated September 10, 1917.

ALBERT SCHOONOVER,  
United States Attorney,

HENRY F. MAY,

Special Assistant to the Attorney General,

FRANK HALL,

Special Assistant to the Attorney General,

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Special Assistant to the Attorney General,  
Solicitors for Plaintiff and Appellee.

JOSEPH D. REDDING,

MORRISON, DUNNE & BROBECK,

Solicitors for Defendant and Appellant.

**Order.**

This cause coming on to be heard on application of the Devil's Den Consolidated Oil Company, defendant and appellant, for an enlargement of the return of citation on appeal to the United States Circuit Court of Appeals for the Ninth Circuit, and for an extension of time within which to file their transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit, and it appearing that a stipulation by and between the parties has been filed herein providing that the return day on such citation may be extended up to and including the 18th day of November, 1917, and that the appellant may have up to and including said 18th day of November, 1917, within which to file its transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit;

IT IS HEREBY ORDERED that the return day of the citation on appeal to the United States Circuit

Court of Appeals for the Ninth Circuit be and the same is hereby enlarged and extended up to and including the 18th day of November, 1917, and the said appellant is hereby given up to and including the said 18th day of November, 1917, within which to file its transcript on appeal in the United States Circuit Court of Appeals for the Ninth Circuit.

Dated September 10, 1917.

WM. H. HUNT,  
Circuit Judge.

[Endorsed]: In the United States Circuit Court of Appeals, Ninth Judicial Circuit. Devil's Den Consolidated Oil Company, Dfts. and Applts. vs. United States of America, Ptf. and Appellee. Stipulation Enlarging Time to Return Citation. Order. Filed Sep. 12, 1917, F. D. Monckton, Clerk.

*United States Circuit Court of Appeals for the Ninth Circuit.*

IN EQUITY—No. D. C. A-37.

DEVIL'S DEN CONSOLIDATED OIL COMPANY, et al.,

Appellants,

vs.

THE UNITED STATES OF AMERICA,  
Appellee.

**Order Enlarging Time to and Including December 18, 1917, to File Record and Docket Cause Under Subdivision 1 of Rule 16.**

Upon application of Mr. Joseph D. Redding, counsel for the appellants, and good cause therefor appearing, it is ORDERED that the return day of the Citation on Appeal to the United States Circuit Court of Appeals for the Ninth Circuit be, and the same is hereby enlarged and extended to and including the 18th day of December, 1917, and the said appellants are hereby given up to and including the said 18th day of December, 1917, within which to file their Transcript of Record on Appeal, and docket the above-entitled cause in this court.

San Francisco, California, November 7, 1917.

WM. H. HUNT,  
United States Circuit Judge.

[Endorsed]: No. —. United States Circuit Court of Appeals for the Ninth Circuit. Order Under Rule 16 Enlarging Time to and Inclg. Dec. 18, 1917, to File Record Thereof and to Docket Case. Filed Nov. 7, 1917. F. D. Monckton, Clerk.

No. 3094. United States Circuit Court of Appeals for the Ninth Circuit. Six Orders Under Rule 16 Enlarging Time to Dec. 18, 1917, to File Record Thereof and to Docket Case. Refiled Dec. 17, 1917. F. D. Monckton, Clerk.

